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**ACTS
AND
RESOLVES**

PASSED BY THE
General Court of Massachusetts
IN THE YEAR

1998

VOLUME II

PUBLISHED BY
William Francis Galvin
SECRETARY OF THE COMMONWEALTH



Chapter 195. AN ACT TO FACILITATE THE IMPLEMENTATION OF THE FISCAL YEAR 1999 GENERAL APPROPRIATIONS ACT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is immediately to facilitate the implementation of the fiscal year 1999 general appropriations act, and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations act or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Sections 2 and 3 of chapter 901 of the acts of 1965 are hereby repealed.

SECTION 2. Section 32 of chapter 637 of the acts of 1983 is hereby amended by striking out the last paragraph, as most recently amended by section 36 of chapter 273 of the acts of 1994, and inserting in place thereof the following paragraph:-

Upon the approval of such application, the commissioner shall notify the town as to the total amount of state aid for such project and the provisions for repayment. No grant shall be approved after June 30, 2001. An application received by the commissioner prior to June 30, 1997 shall be deemed eligible for consideration and shall not require resubmission by the town.

SECTION 3. Item 7506-7962 of section 2 of chapter 267 of the acts of 1995 is hereby amended by adding the following words:- ; and provided further, that notwithstanding any other general or special law to the contrary, the commissioner of capital asset management and maintenance may employ the designer employed to prepare the study for said gymnasium/athletic and fitness facility to prepare the plans and specifications for said facility.

SECTION 4. Item 2150-9963 of section 2 of chapter 15 of the acts of 1996 is hereby amended by inserting after the words "Cedar Swamp Pond" the following words:- , also known as Milford Pond,.

SECTION 5. Item 2000-6967 of section 2 of chapter 28 of the acts of 1996 is hereby amended by adding the following words:- "; provided further, that not more than \$170,000 shall be expended for repairs to a certain fish pier in the town of Swampscott; provided further, that said funds shall be expended only if 25 per cent thereof is provided by the town of Swampscott; provided further, that not less than \$100,000 shall be expended for the renovation of Salisbury town pier and the parking lot in the town of Salisbury; and provided further, that expenditures of said funds shall be contingent on the expenditure of not less than \$25,000 by said town on said renovations.

SECTION 6. (a) Notwithstanding the provisions of chapter 48 of the acts of 1997 or any other general or special law to the contrary, the purposes of this section are to convey certain parcels of land situated in the Feeding Hills section of the city known as the town of Agawam presently owned by Hampden county to said city for the creation of a new regional industrial park which shall provide needed green space industrial inventory, to improve eco-

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nomie development and to create new jobs in the lower Pioneer Valley, and to convey certain parcels of land situated in the city known as the town of Agawam presently owned by the county of Hampden to said city for any valid agricultural, horticultural, or recreational purpose.

(b) Notwithstanding the provisions of any general or special law to the contrary or any ordinance of said city of Agawam, and upon acceptance by said city the following parcels of land situated in said city presently owned by Hampden county are hereby conveyed to the city known as the town of Agawam. Said parcels are described in subsections (c) and (d) of this section.

(c) Notwithstanding the provisions of any general or special law or Agawam city ordinance to the contrary, the following parcels of land situated in the Feeding Hills section of said city shall be utilized by said city for the creation of a new regional industrial park, pursuant to the abolition of Hampden county. Notwithstanding the provisions of chapter 30B of the General Laws or any general or special law to the contrary, three years after the effective date of the transfer of land to said city, said city shall begin payment to the commonwealth on the full and fair market value of the land, as established at the time of the transfer, in an amount equal to 5 per cent of such value per annum, the final payment of which shall be made on or before 20 years thereafter. Payment shall be a sum equal to the full and fair market value of said parcels pursuant to a mutually agreed upon appraisal by a licensed appraiser chosen jointly by the city known as the town of Agawam and the commissioner of the division of capital asset management and maintenance. The inspector general shall review and approve said appraisal and said review shall include an examination of the methodology utilized for said appraisal. The inspector general shall prepare a report of his review and shall file said report with said commissioner for submission to the chairmen of the house and senate committees on ways and means and the joint committee on state administration in accordance with subsection (f) of this section. Said parcels are described in the following deeds recorded in the Hampden county registry of deeds:

(1) The parcel of land situated in the Feeding Hills section of the city known as the town of Agawam more particularly described as Parcel 1. (Pasture lot) in the deed from Albert H. Brown to the Inhabitants of the county of Hampden, and their successors and assigns dated August 5, 1915 and recorded in the Hampden county registry of deeds at book 915, page 453;

(2) The parcel of land situated in the Feeding Hills section of the city known as the town of Agawam more particularly described in the deed from John H. Glenn, unmarried, Alice Ryan, and Mary G. Halladay to the county of Hampden, a body corporate under the laws of the commonwealth of Massachusetts dated March 26, 1925 and recorded in the Hampden county registry of deeds at book 1266, page 285;

(3) The parcel of land situated in the Feedings Hills section of the city known as the town of Agawam more particularly described in the deed from Clifford M. Granger and Grace Granger to the Inhabitants of Hampden county, of said commonwealth of Massachusetts dated September 19, 1945 and recorded in the Hampden county registry of deeds at book 1807, page 455;

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(4) The parcel of land situated in the Feeding Hills section of the city known as the town of Agawam more particularly described in the deed from Mary Satkowski to the Inhabitants of Hampden county, of said commonwealth of Massachusetts dated October 3, 1945 and recorded in the Hampden county registry of deeds at book 1807, page 456; and

(5) The parcel of land situated in the Feeding Hills section of the city known as the town of Agawam more particularly described in the deed from Charles W. Hull to the Inhabitants of the county of Hampden dated April 15, 1931 and recorded in the Hampden county registry of deeds at book 1484, page 170.

(d) Notwithstanding the provisions of any general or special law or Agawam city ordinance to the contrary, the following parcels of land situated in said city shall be utilized by said city for any valid agricultural, horticultural, or recreational purpose, pursuant to the abolition of Hampden county. Notwithstanding the provisions of chapter 30B of the General Laws or any general or special law to the contrary, the city known as the town of Agawam shall, within five years, pay to the commonwealth a sum equal to the full and fair market value of said parcels. Payment shall be a sum equal to the full and fair market value of said parcels pursuant to a mutually agreed upon appraisal by a licensed appraiser chosen jointly by the city known as the town of Agawam and the division of capital asset management and maintenance. Such appraisal shall be based on value of the land for agricultural, horticultural or recreation purposes. Said parcels are described in the following deeds recorded in the Hampden county registry of deeds:

(1) The parcel of land situated in the city known as the town of Agawam more particularly described in the deed from Myra M. Lerche to the Inhabitants of the county of Hampden dated August 30, 1949 and recorded in the Hampden county registry of deeds at book 2008, page 385;

(2) The parcel of land situated in the city known as the town of Agawam more particularly described in the deed from Myra M. Lerche to the Inhabitants of the county of Hampden, in said commonwealth of Massachusetts dated July 7, 1943 and recorded in the Hampden county registry of deeds at book 1763, page 313;

(3) The parcel of land situated in the city known as the town of Agawam more particularly described in the deed from Walter E. Allen, Robert C. Allen, Marion E. Allen Pond and Edith L. Allen Taylor to county of Hampden, Massachusetts dated April 25, 1938 and recorded in the Hampden county registry of deeds at book 1657, page 566 and the deed (Doc. 6820) from Horace J. Rice, Executor of the Will of Harriet A. Clark, otherwise Harriet Allen Clark to county of Hampden, Massachusetts dated April 12, 1938 and recorded in the Hampden county registry of deeds at book 1657, page 567;

(4) The parcel of land situated in the city known as the town of Agawam more particularly described in the deed (Doc. 6821) from Horace J. Rice, Executor of the Will of Harriet A. Clark, otherwise Harriet Allen Clark to county of Hampden, Massachusetts dated April 12, 1938 and recorded in the Hampden county registry of deeds at book 1657, page 567; and

(5) The parcel of land situated in the city known as the town of Agawam more par-

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ticularly described in the deed from Walter E. Allen to the county of Hampden, Massachusetts dated April 4, 1938 and recorded in the Hampden county registry of deeds at book 1657, page 568.

(e) In the event said parcels of land described in subsections (c) and (d) of this section cease to be used at any time for the purposes contained herein, said parcels shall revert to the commonwealth under the care and control of the division of capital asset management and maintenance and any further disposition of said parcels shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws.

(f) The commissioner of the division of capital asset management and maintenance shall, 30 days prior to the execution of any agreement authorized by this act or any subsequent amendment thereto, submit the agreement or amendment and a report thereon to the inspector general for his review and comment. The inspector general shall issue his review and comment within 15 days of receipt of any agreement or amendment. Said commissioner shall submit the agreement and any subsequent amendment thereto, and the reports together with the comments, if any, of the inspector general, to the chairmen of the house and senate committees on ways and means and the joint committee on state administration at least 15 days prior to the execution of said agreement.

SECTION 7. (a) Notwithstanding the provisions of any general or special law to the contrary, or any ordinance in the city of Springfield, and upon acceptance by said city the following parcel of land situated in the south end section of Springfield shall be transferred to the city of Springfield for the continued development of the Connecticut river revitalization project pursuant to the abolition of Hampden county under chapter 48 of the acts of 1997. Notwithstanding the provisions of chapter 30B of the General Laws or any general or special law to the contrary, the city of Springfield shall enter into negotiation and sign a lease with the two current tenants, the department of youth services and the Hampden county sheriffs department, subject to approval by the secretary of administration and finance and the commissioner of the division of capital asset management and maintenance. The city of Springfield shall also be responsible for any and all costs involved in maintaining said property. An appraisal shall be performed by a mutually agreed upon licensed appraiser chosen jointly by the city of Springfield and the commissioner of the division of capital asset management and maintenance. The inspector general shall review and approve said appraisal and said review shall include an examination of the methodology utilized for said appraisal. The inspector general shall prepare a report of his review and shall file said report with said commissioner for submission to the chairmen of the house and senate committees on ways and means and the joint committee on state administration in accordance with subsection (c) of this section. If said land is found to have a positive value, the city of Springfield shall begin payment to the commonwealth within three years of the effective date of the transfer, on the full and fair market value of the land as established at the time of transfer, in an amount equal to 5 per cent of said value annually, and final payment shall be made on or before 20 years thereafter, provided that the cost of maintaining the property and potential demolition costs do not exceed the fair market value. The land parcel is described

in the following deed recorded in the Hampden county registry of deeds: the parcel of land situated in the South End section of the city of Springfield more particularly described in the deed from Charles H. Barrons to the inhabitants of the county of Hampden of said commonwealth of Massachusetts, dated August 22, 1886 and recorded in the Hampden county registry of deeds at book 401, page 493.

(b) In the event said parcel of land ceases to be used at any time for the purposes contained herein, said parcel shall revert to the commonwealth under the care and control of the division of capital asset management and maintenance and further disposition of said parcel shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws.

(c) The commissioner of the division of capital asset management and maintenance shall, 30 days prior to the execution of any agreement authorized by this act or any subsequent amendment thereto, submit the agreement or amendment and a report thereon to the inspector general for his review and comment. The inspector general shall issue his review and comment within 15 days of receipt of any agreement or amendment. Said commissioner shall submit the agreement and any subsequent amendment thereto, and the reports together with the comments, if any, of the inspector general, to the chairmen of the house and senate committees on ways and means and the joint committee on state administration at least 15 days prior to the execution of said agreement.

SECTION 8. Notwithstanding the provisions of any general or special law to the contrary, the department of mental health and the board of trustees of the University of Massachusetts, in implementing the transaction and 99 year contract for use and occupancy contemplated by the provisions of chapter 163 of the acts of 1997, shall record in the Worcester district registry of deeds on behalf of the commonwealth, a release of the restrictions and the rights of reverter established pursuant to the provisions of sections 2 and 3 of chapter 901 of the acts of 1965, as incorporated in the deed dated December 21, 1966 and recorded with said registry of deeds on page 454 of book 4729.

SECTION 9. Notwithstanding the provisions of any general or special law to the contrary, North Shore Community College, with the approval of the board of higher education, may borrow an amount not to exceed \$12,000,000 through the Massachusetts Health and Educational Facilities Authority, or any other authorized funding source.

SECTION 10. The restrictions and rights of reverter contained in sections 2 and 3 of chapter 901 of the acts of 1965 are hereby waived.

SECTION 11. (a) Notwithstanding the provisions of any general or special law to the contrary, or any ordinance in the town of Dedham, and upon acceptance by said town, the commissioner of the division of capital asset management and maintenance is hereby authorized and directed to convey to the town of Dedham by deed approved as to form by the attorney general, two parcels of land currently owned by the Massachusetts Bay Transportation Authority and located in Dedham and situated adjacent to the former Route 1 and currently known as the "soccer field", subject to the terms and conditions as the commissioner may prescribe in consultation with the Massachusetts Bay Transportation Authority and the town, and subject to acceptance by the town of Dedham of the following provisions:

(1) The sale price paid by the town of Dedham for said parcels of land shall be the full and fair market value of the property as determined by independent appraisal, less any improvements, renovations or repairs that have been performed on the land by said town and that have increased the overall value of said parcels.

(2) If the town of Dedham is required to remediate contamination on said parcels pursuant to chapter 21E of the General Laws, said costs of said chapter 21E remediation shall be deducted from the full and fair market value cost that the town of Dedham pays in consideration for receiving said parcels.

(3) The town of Dedham shall, subject to any adjustments in subparagraphs (1) and (2), be responsible for any costs of appraisals, surveys, and other expenses relating to the transfer of said parcels, or for any costs, liabilities and expenses of any nature and kind for the development, maintenance or operation of said parcels.

(b) If the total consideration has been paid in full by the town of Dedham for said parcels when said town incurs said chapter 21E remediation costs, said costs shall be reimbursed to the town by the commonwealth, provided that the commonwealth will not be held responsible for reimbursing said town for any costs in excess of what was paid by said town in consideration for said parcels.

(c) The inspector general shall review and approve said appraisal and said review shall include an examination of the methodology used for said appraisal. The inspector general shall prepare a report of his review and file said report with the commissioner for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration.

(d) The commissioner of the division of capital asset management and maintenance shall, 30 days before the execution of any agreement authorized by this act or any subsequent amendment thereto, submit the agreement or amendment and a report thereon to the inspector general for his review and comment. The inspector general shall issue his review and comment within 15 days of receipt of any agreement or amendment. Said commissioner shall submit the agreement and any subsequent amendments thereto, the report together with the comments, if any, of the inspector general to the chairmen of the house and senate committees on ways and means and the chairmen on the joint committee on state administration at least 15 days prior to execution.

SECTION 12. Notwithstanding the provisions of any general or special law to the contrary, as used in this section the following words and terms shall have the following meaning, unless the context shall clearly indicate a different meaning or intent:

"Commissioner", the commissioner of the division of capital asset management and maintenance;

"Committee", the Lakeville Hospital Reuse Committee which shall consist of 12 members to be appointed by the commissioner, which shall include among its members individuals who represent the town of Lakeville and the town of Middleborough; provided however, that the senators and representatives who represent said towns shall serve as ex-officio members thereto;

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"Developer", a person, entity or governmental body that acquires an ownership or leasehold interest in the site, as defined herein, or any portion thereof pursuant to the provisions of this section;

"Division", the division of capital asset management and maintenance;

"Plan", a reuse plan which shall be prepared by the committee and which shall be approved by the commissioner and by the boards of selectmen of the towns of Lakeville and Middleborough and filed in accordance with the provisions of paragraph 2 which plan may be enhanced, refined or amended from time to time as provided herein;

"Site", the 72 acres, more or less, of land owned by the commonwealth located in the town of Lakeville which comprised the former Lakeville Hospital to be shown on a survey conducted on behalf of the division.

The commissioner shall undertake such planning, studies and preparation of plans and specifications as he deems necessary to carry out the provisions of this section consistent with the plan, provided that the committee shall file said plan within 180 days after the effective date of this act with the commissioner and the boards of selectmen of the town of Lakeville and the town of Middleborough; and provided further, that said plan shall be approved by a majority of the members of the boards of selectmen of said towns. The commissioner shall consult with the committee and the boards of selectmen on any amendment to said plan, provided however, that a majority of the members of the boards of selectmen of said towns shall approve any amendments thereto.

The commissioner may, subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, and in accordance with the provisions of this section and said plan, solicit, evaluate and select proposals submitted by developers and to enter into land disposition agreements to sell, lease, grant, convey or transfer to a developer any interest in the site or any portion thereof, together with any improvements or appurtenances thereon, under such terms and conditions as the commissioner deems appropriate. The amount of consideration for said sale, lease or other disposition shall be full and fair market value, provided, however, that said consideration shall take into account the social and economic benefits of said proposals to the surrounding communities.

The commissioner may, notwithstanding the provisions of said sections 40E to 40J, inclusive, of said chapter 7 or any other general or special law to the contrary, retain, accept, acquire by purchase, transfer, lease, eminent domain pursuant to the provisions of chapter 79 of the General Laws, or otherwise, and grant by deed, transfer, lease or otherwise, any right-of-way or easement in, over, and beneath the site or any portion thereof of any property of the commonwealth contiguous to said site for drainage, access, egress, utilities or any other purpose as the commissioner deems necessary to carry out the provisions of this section.

SECTION 13. Notwithstanding the provisions of any general or special law to the contrary, the department of environmental management shall expend \$5,000,000 for improvements to Forest Park in the city of Springfield, pursuant to section 32 of chapter 15 of the acts of 1996.

Approved July 30, 1998.

**Chapter 196. AN ACT RELATIVE TO A CERTAIN DISABILITY RETIREMENT
FOR WALTER L. HEAGNEY, JR.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, the city of Attleboro contributory retirement board shall retire Walter L. Heagney, Jr. under the terms and conditions of a disability caused by heart disease pursuant to section 94 of chapter 32 of the General Laws.

SECTION 2. This act shall take effect upon its passage.

Approved July 30, 1998.

**Chapter 197. AN ACT DESIGNATING THE LIBRARY AT THE WESTBOROUGH
STATE HOSPITAL AS THE JOHN LOWE LIBRARY.**

Be it enacted, etc., as follows:

The library located in the administration building at the Westborough state hospital shall be designated and known as the John Lowe Library. Suitable markers bearing said designation shall be placed there and maintained by the board of trustees of said hospital.

Approved July 31, 1998.

**Chapter 198. AN ACT RELATIVE TO THE REORGANIZATION OF CERTAIN
INSURANCE COMPANIES.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the reorganization of domestic mutual insurance companies, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Paragraph 1 of section 30 of chapter 63 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "sixty-seven H", in line 36, the following words:- or sections 19F to 19W, inclusive, of chapter 175.

SECTION 2. Paragraph 2 of said section 30 of said chapter 63, as so appearing, is hereby amended by inserting after the word "fifty-six B", in line 45, the following words:- or sections 19F to 19W, inclusive, of chapter 175.

SECTION 2A. Section 32 of said chapter 63, as so appearing, is hereby amended by inserting after the word "greater", in line 6, the following words:- , except that an insurance mutual holding company established pursuant to section 19 of chapter 175 shall pay on ac-

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count of each taxable year, only the excise provided by clause (2) of subsection (a) or subsection (b), whichever is greater.

SECTION 2B. Section 39 of said chapter 63, as so appearing, is hereby amended by inserting after the word "greater", in line 6, the following words:- , except that a foreign insurance mutual holding company organized pursuant to the laws of the state in which it is established shall pay, on account of each taxable year, only the excise provided by clause (2) of subsection (a) or subsection (b), whichever is greater.

SECTION 3. Chapter 175 of the General Laws is hereby amended by inserting after section 19E the following 18 sections:-

Section 19F. Upon compliance with the requirements and completion of the proceedings prescribed by sections 19G to 19W, inclusive, a domestic mutual insurance company may be reorganized as a domestic stock insurer owned, directly or indirectly, by a mutual holding company.

Section 19G. As used in sections 19F to 19W, inclusive, the following words shall, unless the context requires otherwise, have the following meanings:-

"Adoption date", the date the board of directors approves the plan of reorganization.

"Articles of organization" or "charter", a corporation's articles of organization, including any special act of incorporation, as from time to time amended.

"Commissioner", the commissioner of insurance.

"Converted holding company", the stock corporation into which a mutual holding company has been converted in accordance with the provisions of section 19U.

"Effective date", the date upon which the reorganization of the mutual insurer is effective, as provided in subsection (a) of section 19K.

"Equity rights", rights in the equity of a mutual holding company conferred by law or such company's articles of organization, including rights to participate in any distribution of equity or assets whether or not incident to a liquidation of the mutual holding company. Equity rights shall not include any right expressly conferred solely by the terms of a policy.

"Institution", a corporation, joint stock company, limited liability company, association, voluntary association of the type commonly known as a business trust, partnership or any similar entity.

"Intermediate stock holding company", an institution at least 51 per cent of the voting stock of which is owned, directly or through another intermediate stock holding company, by a mutual holding company and which owns, directly or indirectly, not less than 51 per cent of the voting stock of at least one reorganized insurer.

"Member", a person entitled to vote at meetings of a mutual company under such company's charter or by-laws or any general or special law.

"Membership interests", all interests of members of a mutual holding company arising under any special or general law and the charter and by-laws of the mutual holding company or otherwise by law.

"Mutual company", a mutual life insurer, mutual insurer other than life, or mutual holding company.

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"Mutual holding company", a corporation organized under sections 19F to 19W, inclusive, the articles of organization of which contain provisions to the following effect:

(i) It is a mutual holding company organized under sections 19F to 19W, inclusive.

(ii) One purpose of such mutual holding company is to own, directly or through one or more intermediate stock holding companies, not less than 51 per cent of the voting stock of one or more reorganized insurers.

(iii) It is not authorized to issue voting stock.

(iv) Its members have the rights specified in subsections (a) to (n), inclusive, of section 19K and in its articles of organization and by-laws.

(v) Its assets and liabilities are, to the extent provided in sections 19F to 19W, inclusive, subject to inclusion in the estate of the reorganized insurer in any proceedings successfully prosecuted against the reorganized insurer under section 6 or sections 180A to 180L, inclusive.

"Mutual insurer", in the case of a plan of reorganization under sections 19F to 19W, inclusive, the mutual life insurer or mutual insurer other than life that is reorganizing pursuant to such plan.

"Person", an individual, partnership, firm, association, corporation, joint-stock company, limited liability company, limited liability partnership, trust, government or governmental agency, state or political subdivision of a state, public or private corporation, board, association, estate, trustee, or fiduciary, or any similar entity.

"Plan of conversion", a plan adopted by a mutual holding company in compliance with section 19U.

"Plan of reorganization", a plan adopted by a mutual insurer in compliance with subsection (a) of section 19H.

"Policy", an individual or group policy of insurance, annuity contract or fidelity or surety bond issued by an insurer.

"Policyholder", the holder of a policy other than a reinsurance contract.

"Reorganized insurer", the domestic stock insurer into which a mutual insurer has been reorganized in accordance with the provisions of sections 19F to 19W, inclusive.

"Reorganizing insurer", for a plan of reorganization under sections 19F to 19W, inclusive, the mutual insurer that is reorganizing under such a plan.

"Stock purchase rights", a nontransferable right granted to each policyholder of the reorganized insurer, subject to any exclusions or limitations authorized by law applicable to particular classes of policyholders, who has been a policyholder for at least one year prior to the effective date, to acquire stock in the reorganized insurer if it conducts an initial public offering of voting stock or in any intermediate stock holding company that conducts an initial public offering of voting stock. No stock purchase right shall provide for a purchase of less than 50 shares of the common stock being offered in the public offering. The price per share shall be equal to the public offering price. In the event that the exercise of such rights exceeds 50 per cent of the number of shares being offered to the public, or such lesser percentage as may be approved by the commissioner, exercise of such stock purchase rights shall be subject to proration, subject to a minimum of 50 shares.

"Voting stock", securities of any class or any ownership interest having voting power for the election of directors, trustees, or management of a person, other than securities having voting power only because of the occurrence of a contingency. All references to a specified percentage of voting stock of any person shall mean securities having the specified percentage of the voting power in that person for the election of directors, trustees, or management of that person, other than securities having voting power only because of the occurrence of a contingency.

Section 19H. (a) The plan of reorganization shall include appropriate proceedings for amending the mutual insurer's articles of organization to give effect to the reorganization from a mutual insurer into a stock corporation. The plan of reorganization shall be:

(1) approved by vote of a three-fourths majority of the board of directors;

(2) submitted to the commissioner for consent in writing, subject to the provisions of subsection (d), by an application executed by an authorized officer of the reorganizing insurer and accompanied by the following documents, or true and correct copies of the documents:

(i) the proposed plan of reorganization;

(ii) the proposed articles of organization of each corporation that is a constituent corporation of the reorganization;

(iii) the proposed by-laws of each corporation that is a constituent corporation of the reorganization;

(iv) a list of the officers and directors, together with their biographies in the form customarily required by the commissioner, of each corporation that is a constituent corporation of the reorganization;

(v) the resolution of the board of directors of the mutual insurer, certified by the secretary of the mutual insurer, authorizing the reorganization under sections 19F to 19W, inclusive;

(vi) financial statements in a form acceptable to the commissioner giving effect to the reorganization for the mutual holding company and any entities which will be subsidiaries of the mutual holding company after the reorganization and which will experience a change in capitalization due to the reorganization;

(vii) a draft of materials to be mailed to members seeking their approval of the plan, including a summary of the plan of reorganization; and

(viii) other relevant information that the commissioner may require.

(3) approved by a vote of not less than two-thirds of the members of the mutual insurer voting at a meeting of the members called for that purpose, subject to the provisions of subsection (e);

(4) filed with the commissioner after receipt of the commissioner's consent, and after having been approved as provided in subsection (d).

(b) A plan of reorganization adopted pursuant to sections 19F to 19W, inclusive, shall demonstrate a purpose and specify reasons for the proposed reorganization, and shall provide that the mutual insurer will become a stock insurer, that the members of the mutual insurer

will become members of a mutual holding company, that the owners of policies issued by the reorganizing insurer and in force on the effective date shall as of the effective date have equity rights in the mutual holding company, and that the mutual holding company will acquire, directly or through one or more intermediate stock holding companies, at least 51 per cent of the voting stock of the reorganized insurer.

(c) The commissioner shall hold a public hearing upon the fairness of the terms and conditions of the plan of reorganization, the reasons and purposes for the reorganization of the mutual insurer, and whether the reorganization is in the best interest of said mutual insurer and is fair and equitable to its policyholders, and not detrimental to the insuring public. Notice stating the time, place and purpose of the hearing shall be mailed by the reorganizing insurer to each eligible policyholder, at his last known address as shown on the records of the reorganizing insurer, except in instances where mailing of notice is not feasible as determined by the commissioner. Such notice shall be mailed at least 60 days prior to the date of the hearing. Such notice shall be preceded or accompanied by a true and complete copy of the plan, or by a summary thereof approved by the commissioner, and such other explanatory information as the commissioner shall approve or require. In addition, the reorganizing insurer shall give notice of the time, place and purpose of the hearing by publication in three newspapers of general circulation, one in the county in which the reorganizing insurer has its principal office and two in other cities within or without the state approved by the commissioner. Such newspaper publications shall be made not less than 15 days nor more than 60 days prior to the hearing, and shall be in a form approved by the commissioner. The directors, officers, employees and policyholders of the reorganizing insurer shall have the right to appear and be heard at the hearing.

(d) The commissioner shall, after the public hearing required by subsection (c), approve the plan of reorganization if he finds that: the proposed reorganization is in the best interests of the reorganizing insurer; the plan is fair and equitable to the reorganized insurer's policyholders; the plan provides for the enhancement of the operations of the reorganizing insurer; the plan will not substantially lessen competition in any line of insurance business and, when completed, provides for the reorganized insurer's paid in capital stock to be in an amount at least equal to the minimum paid in capital stock and the net surplus required of a new domestic stock insurer upon its initial authorization to transact like kinds of insurance; and, the plan complies with the requirements of sections 19F to 19W, inclusive. The commissioner shall approve or disapprove the plan in writing on or before 60 days after the conclusion of the public hearing required by subsection (c). The commissioner, if he determines that the plan of reorganization is not fair and equitable to the policyholders, may request that the reorganizing insurer modify said plan prior to his approval or disapproval of said plan; provided, however, that such request does not prevent the reorganizing insurer from withdrawing said plan pursuant to subsections (a) to (n), inclusive, of section 19K. If approval is denied, the denial shall be in writing setting forth a statement of the reasons therefor and the reorganizing insurer shall have the right to a hearing before the commissioner within 30 days of the date of such denial.

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(e) The meeting of members prescribed by clause (3) of subsection (a) shall be called by the board of directors, the chairperson of the board or the president of the reorganizing insurer. Notice stating the date, time and place of the meeting shall be mailed by the reorganizing insurer to its policyholders at their last known addresses as shown on the records of the reorganizing insurer, except in instances where mailing of notice is not feasible as determined by the commissioner, and notice given to the holder of a policy shall constitute notice to the member whose membership arises from the policy. Said meeting shall be held no sooner than 30 days after the date of the public hearing pursuant to this subsection. Said notice shall be mailed at least 60 days prior to the date of said meeting. Such notice may be combined with the notice of public hearing mailed to policyholders pursuant to subsection (c). Such notice shall be preceded or accompanied by a true and complete copy of the plan, or by a summary thereof approved by the commissioner, and such other explanatory information as the commissioner shall approve or require including financial statements as described in subclause (vi) of clause (2) of subsection (a), a description of material risks and benefits to policyholders' interests, and any information pertaining to an offering of stock to the public included in the provisions of the plan of reorganization submitted to the commissioner as described in section 19P. Each member entitled to vote on the plan of reorganization shall vote by written ballot cast in person or by mail or by a proxy agent duly appointed by the member. Persons entitled to vote on the plan of reorganization shall be those persons whose names appear on the reorganizing insurer's records as members on the adoption date.

The commissioner shall have the power to supervise and direct and prescribe the rules governing the procedure for the conduct of voting on the proposal to such extent, consistent with the provisions of sections 19F to 19W, inclusive, as he deems necessary to insure a fair and accurate vote. Such powers shall include, but not be limited to, power to supervise and regulate: (a) the determination of policyholders entitled to notice of and to vote on the proposal; (b) the giving of notice of the proposal; (c) the receipt, custody, safeguarding, verification and tabulation of proxy forms and ballots; and (d) the resolution of disputes.

For the purposes of determining whether a reorganization plan meets the requirements of sections 19F to 19W, inclusive, the commissioner may employ staff personnel and private consultants. All reasonable costs related to the review of a plan of reorganization, including costs attributable to the use of staff personnel, shall be borne by the insurer submitting the plan.

Section 19I. No director, officer, agent or employee of the reorganizing insurer, or any other person, shall receive any fee, commission or other valuable consideration whatsoever, other than his usual regular salary and compensation, for in any manner aiding, promoting or assisting in such reorganization, except as set forth in the plan of reorganization approved by the commissioner. This provision shall not be deemed to prohibit the payment of reasonable fees and compensation to attorneys at law, accountants and actuaries for services performed in the independent practice of their professions, even though they may be directors of the insurer.

Section 19J. At any time before the plan of reorganization becomes effective as provided in subsections (a) to (n), inclusive, of section 19K, the mutual insurer may, by vote of a three-fourths majority of the board of directors, withdraw or amend the plan of reorganization. Any such plan amendment shall require the written consent of the commissioner. For a plan amendment, all references in sections 19F to 19W, inclusive, to the plan of reorganization shall be deemed to refer to the plan as amended, but no amendment shall be deemed to change the adoption date of the plan of reorganization. No amendment may change the plan of reorganization in a manner that the commissioner determines is prejudicial to the policyholders of the reorganizing insurer, unless a further hearing is held on the plan as amended, if the amendment is made after the initial public hearing, or unless the plan as amended is submitted for reconsideration by the members, if the amendment is made after the plan has been approved by the members.

Section 19K. Upon consent by the commissioner to the plan of reorganization of a mutual insurer and filing of the plan of reorganization in accordance with the provisions of clause (4) of subsection (a) of section 19H, the commissioner shall issue a new certificate of authority to the reorganized insurer and approve the articles of organization of the mutual holding company and amended articles of organization of the reorganized insurer for filing with the state secretary by attaching thereto a certificate of approval in such form as the commissioner may prescribe. The commissioner instead of the state secretary shall have the power to perform the duties relative thereto specified in section 6 of chapter 156B. The plan of reorganization shall be effective upon the filing of the articles of organization of the mutual holding company and amended articles of organization of the reorganized insurer with the state secretary or upon such later date as is specified in the plan of reorganization and amended articles of organization of the reorganized insurer; provided, however, that such later date shall not be more than 30 days after the filing of the articles of organization of the mutual holding company with the state secretary.

(b) Upon the effective date of a plan of reorganization:

(i) the reorganizing insurer immediately shall become a domestic stock insurer and shall be a continuation of the corporate existence of the reorganizing insurer, and for all purposes of this chapter, its articles of organization shall be the amended articles of organization filed in accordance with subsection (a), as they may thereafter be amended in accordance with this chapter;

(ii) all rights of any person to vote, including the right to vote in the election of directors or at annual or special meetings of the reorganizing insurer, or to share in any distribution of, or to receive consideration based upon, the surplus of the reorganizing insurer in liquidation or winding up, in dissolution or conservation or otherwise under the General Laws or the charter or by-laws of the mutual company or otherwise by law, shall be extinguished; provided, however, that rights expressly conferred solely by the terms of a policy, except the right to vote, shall not be extinguished;

(iii) the members of the reorganizing insurer on such effective date shall immediately become members of the mutual holding company; provided, however, that, the rights of a

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person as a member shall continue only so long as the related policy remains in force;

(iv) owners of policies that make provision for the right to vote issued by the reorganizing insurer and in force on the effective date shall as of the effective date have equity rights in the mutual holding company; provided, however, that, the rights of a person as a holder of equity rights shall continue only so long as the related policy remains in force; and

(v) all of the voting stock initially issued by the reorganized insurer shall be owned, directly or through one or more intermediate stock holding companies, by the mutual holding company.

Owners of policies that make provision for the right to vote that are issued after the effective date by the reorganized insurer shall be members of the mutual holding company and holders of equity rights in the mutual holding company. The rights of a person as a member of a mutual holding company or as holder of equity rights shall continue only so long as the related policy remains in force. Any person may be a member of a mutual holding company.

(c) From the effective date of a plan of reorganization, at least 51 per cent of the issued and outstanding voting stock of the reorganized insurer shall be owned by the mutual holding company or an intermediate stock holding company, and at least 51 per cent of the issued and outstanding voting stock of any intermediate stock holding company shall be owned by the mutual holding company or another intermediate stock holding company. For purposes of these calculations, any issued and outstanding securities of the reorganized insurer or any intermediate stock holding company that are convertible into voting stock are considered issued and outstanding voting stock.

(d) So far as pertinent and not in conflict with the express provisions of this chapter, with other provisions of law relative to mutual holding companies or with their charters:

(i) the mutual holding company shall not engage in the insurance business;

(ii) the mutual holding company shall be a "holding company" within the meaning of sections 206 to 206D, inclusive;

(iii) the general principles of law relative to the powers, duties and liabilities of corporations shall apply to all mutual holding companies;

(iv) sections 46B, 50A, 50B and 60 and the provisions of the third paragraph of section 77 shall be applicable to mutual holding companies;

(v) sections 2 and 7, sections 9 to 13, inclusive, sections 16, 49 and 52, sections 54 to 59, inclusive, and section 67 of chapter 156B, shall be applicable to mutual holding companies;

(vi) the term "stockholders" and other terms of similar meaning where they appear in applicable sections of chapter 156B shall, in the case of a mutual holding company, mean the members thereof; and

(vii) the mutual holding company shall not make any payment of income, dividends contingent upon an apportionment of profits, or any other distribution of profits, except to the limited extent provided in the mutual holding company articles of organization or as

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otherwise directed or approved by the commissioner. The commissioner shall, subject to the specific authority granted by this chapter, retain jurisdiction at all times over a mutual holding company to assure that the reorganizing insurer's policyholders' interests are protected.

(e) Members of the mutual holding company shall be notified of the annual meetings of the mutual holding company by written notice to all policyholders of the reorganized insurer by first class mail at least 60 days in advance of an annual meeting.

(f) Every member of the mutual holding company shall be entitled to one vote; provided, however, that, except in the circumstances described in sections 36, 132D and 137, every member of the mutual holding company under a policy of life or endowment insurance issued by reorganized insurer shall be entitled to one vote and, except in the case of a policy of life or endowment insurance which is a contract on a variable basis, one vote additional for each \$5,000 of insurance in excess of the first \$5,000, every member of the mutual holding company holding an annuity or pure endowment contract issued by such insurer shall be entitled to one vote and, except in the case of an annuity contract which is a contract on a variable basis, one vote additional for each \$150 of annual annuity income in excess of the first \$150, and, except as provided in section 110, every member of the mutual holding company insured under any policy issued by any such insurer under clause Sixth of section 47 shall be entitled to one vote; but no member of a mutual holding company shall, in person or by proxy, cast more than 20 votes.

(g) Members of the mutual holding company may vote by proxies dated and executed within three months of, and returned and recorded on the books of the company seven days or more before, the meeting at which they are to be used.

(h) Any required member approval shall be by the affirmative vote of a majority of the members of the mutual holding company who vote, or a higher percentage of the members as may be required by law or the articles of organization.

(i) The articles of organization or the by-laws of the mutual holding company may provide that the directors may be divided into two or more classes whose terms of office shall expire at different times. No term shall continue longer than six years. In the absence of such provisions, each director shall be elected for a term of one year. All directors shall hold office for the term for which they are elected and until their successors are elected and qualified. Vacancies in the board of directors may be filled by a majority of the remaining directors, though less than a quorum. Each director so elected shall hold office until the next annual meeting.

(j) For a period of ten years from the effective date of a plan of reorganization, if any proceedings under section 6 or sections 180A to 180L, inclusive, are brought naming as a party a stock insurer created as a result of proceedings authorized by sections 19F to 19W, inclusive, the mutual holding company formed as part of the reorganization shall become a party to the proceedings. The assets of the mutual holding company, including, but not limited to, its interest in any intermediate stock holding company formed pursuant to this section, shall be deemed assets of the estate of the reorganized insurer to the extent necessary

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to satisfy claims of persons against the reorganized insurer who have claims falling within the priorities established in subparagraphs (1) to (4), inclusive, of the fifth paragraph of section 180F; provided, however, that in no event shall a mutual holding company's contribution to the estate of a reorganized insurer pursuant to this sentence exceed the value of assets, net of liabilities, which such reorganized insurer transferred to the mutual holding company or to one or more persons owned or controlled by the mutual holding company pursuant to section 19 O. Claims of persons in their capacity as members of the mutual holding company shall have the same priority as members of a mutual insurer authorized to do the same kinds of business as the reorganized insurer would have upon the liquidation of such an insurer under said section 180F. A mutual holding company may not dissolve, liquidate, or wind up and dissolve without the prior written approval of the commissioner or the court pursuant to proceedings brought pursuant to sections 180A to 180L, inclusive.

(k) Membership interests in a mutual holding company shall not be considered a security as that term is defined by section 401 of chapter 110A. A description of the membership interests and related factual disclosure shall not be considered to be an inducement to buy insurance in violation of section 181 or 182 of this chapter or section 3 of chapter 176D, and receiving such description and related factual disclosure shall not subject the receiver to the provisions of section 183.

(l) A mutual holding company organized under this section may hold, directly or indirectly, multiple subsidiaries, including multiple intermediate stock holding companies, and an intermediate stock holding company may hold multiple subsidiaries; directly or indirectly, including multiple reorganized insurers.

(m) Notwithstanding any general or special law to the contrary, a mutual holding company shall not be permitted to transfer its domicile to any other state without the approval of the commissioner for a period of five years after the effective date.

(n) If the total adjusted capital, as such term is defined in the risk based capital regulations promulgated by the commissioner, effective as of June 30, 1997, and published in 211 CMR 20, of the reorganized insurer is less than 300 per cent of its authorized control level risk based capital, as such term is defined in the risk based capital regulations, as of any calendar year-end after the reorganization effective date, then for so long as such deficiency continues, the reorganized insurer shall not, without prior notice to and review by the commissioner, make any acquisitions of subsidiaries. The restrictions set forth above shall be for the purpose of protecting the solvency of the reorganized insurer and shall be in addition to any other restrictions imposed on such insurer by the risk based capital regulations.

(o) The plan of reorganization or any plan of conversion adopted pursuant to section 19U may also include provisions restricting the ability of any person or persons acting in concert from directly or indirectly offering to acquire or acquiring the beneficial ownership of 10 per cent or more of any class of voting stock of the reorganized insurer or converted holding company, as the case may be, or any entity that, directly or indirectly, controls either.

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Section 19L. (a) Notwithstanding any general or special law to the contrary and except as otherwise provided in subsections (c) and (d), actions concerning any plan of reorganization, proposed plan of reorganization, or any plan amendment or proposed plan amendment under section 19J or any acts taken or proposed to be taken under this section, shall be commenced within one year after the plan of reorganization or plan amendment is filed with the commissioner pursuant to clause (4) of subsection (a) of section 19H, or, if the plan of reorganization becomes effective, six months from the effective date of the plan of reorganization, whichever is later. If the plan of reorganization is withdrawn, such actions shall be commenced within six months from the date the board of directors approves a resolution to withdraw the plan. Actions concerning a plan amendment or proposed plan amendment made under section 19M shall be commenced within one year after the plan amendment or proposed plan amendment is filed with the commissioner pursuant to clause (iv) of subsection (b) of said section 19M, or if the amendment becomes effective, six months from the effective date thereof, whichever is later. If a plan amendment or proposed plan amendment made under said section 19M is withdrawn, such actions shall be commenced within six months from the date the board of directors approves a resolution to withdraw the plan. Actions arising out of either a transfer of assets or liabilities pursuant to section 19 O or an offering of voting stock pursuant to section 19P, which transfer or offering is not contemplated by the plan must be commenced within one year from such transfer or offering. Actions concerning any plan of conversion or proposed plan of conversion under section 19U or any acts taken or proposed to be taken under said section 19U shall be commenced within one year after the plan of conversion is filed with the commissioner pursuant to said section 19U or six months from the effective date of the plan of conversion, whichever is later.

(b) In any action referred to in subsection (a), any party adverse to the mutual holding company shall be required, upon motion of the mutual holding company, reorganizing insurer, reorganized insurer or an intermediate stock holding company which establishes to the satisfaction of the court that a substantial likelihood exists that such action is brought without merit and with an intention to delay or harass, at any stage of the proceedings before final judgment, to give adequate security for the damages and reasonable expenses, including attorneys' fees, which may be incurred as a result of, or in connection with, such action by such company and by any other defendants in such action or for which such company may become liable, to which security the mutual holding company, reorganizing insurer, reorganized insurer or an intermediate stock holding company shall have recourse in such amount as the court determines upon the termination of such action. The amount of security may from time to time be increased or decreased in the discretion of the court upon a showing that the security provided has or may become inadequate or excessive.

(c) Notwithstanding any general or special law to the contrary, any action seeking a stay, restraining order, injunction or similar remedy to prevent or delay the closing of any transaction pursuant to sections 19F to 19W, inclusive, or of any transaction described in a plan of reorganization or plan of conversion shall be commenced within 30 days after, as

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applicable, the approval of the plan of reorganization by the commissioner pursuant to subsection (d) of section 19H, the approval of the commissioner pursuant to section 19 O or 19P or approval of the plan of conversion by the commissioner pursuant to section 19U.

(d) Any action or proceeding against the commissioner or any other governmental body or officer in connection with any act taken or order issued pursuant to sections 19F to 19W, inclusive, shall be commenced within 30 days from the date of such act or signing of such order.

Section 19M. (a) The amended articles of organization of a reorganized insurer that have been adopted pursuant to a plan of reorganization and filed with the state secretary in accordance with subsections (a) to (n), inclusive, of section 19K may be further amended after the effective date pursuant to section 50.

(b) The plan of reorganization may be amended in other respects after the effective date of such plan as specified in this section. Such an amendment shall take effect upon filing with the state secretary after compliance with the following:

(i) approval by a vote of a majority of the board of directors of the reorganized insurer;

(ii) submission to the commissioner for consent in writing, subject to the provisions of subsection (a) of section 19H;

(iii) approval by a majority of those who vote at a meeting of members of the mutual holding company eligible to vote thereon called for the purpose of considering the amendment to the plan. Members eligible to vote thereon shall be members of the mutual holding company who were members of the former mutual insurer and were entitled to vote on the original plan of reorganization; and

(iv) filed with the commissioner after having been consented to and approved as contemplated by clauses (ii) and (iii).

(c) If an amendment proposed under subsection (b) would adversely affect the rights of one or more classes of members, but not all such members, then only the members of each class whose rights would be adversely affected by the proposed amendment are entitled to vote on the proposed plan amendment.

(d) A member meeting prescribed by clause (iii) of subsection (b) shall be called by the board of directors, the chairperson of the board, or the president of the reorganized company. Voting shall be in person, by proxy or by mail at a meeting of members called for that purpose pursuant to the mutual holding company's articles of organization and by-laws.

(e) At any time before the plan amendment becomes effective, the reorganized company may, by vote of a majority of the board of directors, amend the plan amendment or withdraw its plan amendment. For an amendment to a plan amendment, all references in sections 19F to 19W, inclusive, to the plan amendment shall be deemed to refer to the plan amendment as amended. Any amendment of the plan amendment shall require the written consent of the commissioner. No amendment shall be deemed to change the date of adoption of the plan amendment. No amendment made after approval by the members as provided in clause (iii) of subsection (b) may change the plan amendment in a manner that the commis-

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sioner determines is prejudicial to any of the affected members unless the plan amendment as amended is submitted for reconsideration under the procedures prescribed in this section for the original plan amendment.

Section 19N. If the name of a mutual insurer reorganizing to a stock insurer pursuant to sections 19F to 19W, inclusive, includes the word mutual, the new stock insurer may continue to use the word mutual in its name unless the commissioner finds that the continued use of the word mutual in its name is likely to mislead or deceive the public.

Section 19 O. In addition to any dividend in compliance with section 72, a reorganized insurer may, either pursuant to the plan of reorganization or upon the prior approval of the commissioner, on any one or more occasions on or after the effective date, transfer assets or liabilities, including any one or more of its subsidiaries, to the mutual holding company or to one or more persons owned or controlled by the mutual holding company; provided, however, that in any such transfer, in either a single instance or in the aggregate, the liabilities so transferred may not be greater than the assets so transferred. The commissioner shall approve such a proposed transfer unless the commissioner finds that the transfer would materially adversely affect the ability of the reorganized insurer to meet its obligations under its policies. If such a transfer is to be made upon the prior approval of the commissioner rather than under a plan of reorganization, the other provisions of sections 19F to 19W, inclusive, including, without limitation, the requirement of filing a plan of reorganization, shall not apply. The provisions of section 206C shall not apply to any transfer effected pursuant to this section.

Section 19P. (a) The offering of voting stock by the reorganized insurer or intermediate stock holding company to any person other than the mutual holding company or a wholly owned subsidiary thereof, which offering is the first to occur after the effective date of the plan of reorganization, shall be made only in accordance with such provisions as the plan of reorganization may contain governing such a first offering, or with the prior approval of the commissioner after submission of an application by the proposed issuer. The commissioner shall approve any such application unless he finds, in the case of a public offering, that the offering would not be conducted in a manner generally consistent with customary practices for initial public offerings, to the extent reasonably comparable, or, in the case of any other offering, that the offering would be prejudicial to the members of the mutual holding company. None of the foregoing shall be deemed to prohibit the filing of a registration statement with the Securities and Exchange Commission and the state secretary prior to such approval.

For the purposes of determining whether an application meets the requirements of this section, the commissioner may employ staff personnel and outside consultants. All reasonable costs related to the review of such an application, including those costs attributable to the use of staff personnel, shall be borne by the issuer submitting the application.

For purposes of this section, any securities of the reorganized insurer or any intermediate stock holding company that are convertible into voting stock shall be considered voting stock.

Section 19Q. In the case of a reorganizing insurer that is a mutual life insurer, upon the effective date the reorganizing insurer shall, at its option, either:

(1) (i) establish a closed block, for policyholder dividend purposes only, consisting of all of the participating individual policies of the reorganizing insurer in force on the effective date and for which the insurer had an experience based dividend scale payable in the year in which the plan of reorganization was adopted, to which, on or before the effective date, shall be allocated assets of the insurer in an amount that produces cash flows, together with anticipated revenues from the closed block business, expected to be sufficient to support the closed block business including provision for payment of claims and those expenses and taxes specified in the plan of reorganization and to provide for continuation of dividend scales in effect on the adoption date, if the experience underlying such scales continues, provided that no policies entering into force after the effective date will be included in the closed block; and

(ii) the terms for the establishment of the closed block may provide for conditions under which, with the approval of the commissioner, the reorganized insurer may cease to maintain the closed block and allocation of assets thereto, but regardless of such a cessation the policies constituting closed block business shall remain obligations of the reorganized insurer and dividends on such policies shall be apportioned by the board of directors of the reorganized insurer in accordance with the terms of such policies and contracts and applicable provisions of any general or special law; or

(2) provide as to participating individual policies of the reorganizing insurer in such manner as the commissioner may approve if he determines that such alternative is substantially as protective of the interests of individual participating policyholders as the establishment of a closed block pursuant to clause (1);

(3) the purpose of the closed block or of the alternate method so approved by the commissioner pursuant to paragraph (2) shall be to protect the contractual rights of the policyholders who own policies as of the effective date. The equity interest of the policyholders of the reorganized insurer shall be equal, in the aggregate, to the value of the entire capital and surplus of the mutual holding company, excluding any funds required to be held in segregated accounts by federal statute, and shall be the basis for consideration to policyholders in the event the mutual holding company converts into a domestic stock corporation as set forth in paragraph (5) of subsection (b) of section 19U;

(4) as of the end of the third year following the year of conversion and as of the end of each third year thereafter, or more frequently as determined by the commissioner, an independent accounting or actuarial firm shall attest to the commissioner, the board of directors of the mutual holding company and the board of directors of the reorganized insurer on whether or not the closed block and related assets, or practice provided for in paragraph (2), has been administered in accordance with the plan of conversion approved by the commissioner. Such firm shall take into consideration the dividend payments to policyholders resulting from the closed block and any other relevant factors. The expenses incurred in retaining the independent accounting or actuarial firm shall be paid by the reorganized

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insurer. The work of the independent accounting or actuarial firm shall be completed and delivered to the commissioner, the board of directors of the mutual holding company and the board of directors of the reorganized insurer by the close of business on the first day of April following the end of the period for which a report is being provided.

Section 19R. Other requirements applicable to a reorganizing insurer, an intermediate stock holding company and a mutual holding company shall be as follows:

(1) Notwithstanding any other provision of the General Laws, nothing in this section shall be deemed to prohibit provisions under which the officers, directors, employees, agents, and employee benefit plans of the mutual holding company, reorganizing insurer or an intermediate stock holding company, for their benefit, may be entitled, in accordance with reasonable classifications of those individuals and employee benefit plans, to purchase for cash, at the same price as offered to the public in any public offering, voting stock issued by the reorganized insurer or any intermediate stock holding company. Subject to limitations set forth in this section, nothing in sections 19F to 19W, inclusive, shall be deemed to prohibit the establishment of stock option, incentive, and share ownership plans customary for publicly traded companies.

(2) Until six months after the completion of either an initial public offering, private equity placement or the first issuance of public or private stock or securities convertible into voting stock of the reorganized insurer or the intermediate stock holding company to any person other than the mutual holding company or an intermediate stock holding company, neither an intermediate stock holding company nor the reorganized insurer shall award any stock options or stock grants to persons who are officers or directors of the mutual holding company, an intermediate stock holding company or the reorganized insurer; provided, however, that, if a reorganized insurer or its intermediate stock holding company distributes stock purchase rights to the policyholders of a reorganized insurer in connection with a public offering of stock, then directors and officers who are policyholders of such reorganized insurer shall receive and may exercise such stock purchase rights on the same basis as all other such policyholders.

(3) Until two years after the six month period referred to in paragraph (2), the officers, directors and outside directors of the mutual holding company, an intermediate stock holding company and of the reorganized insurer may not own beneficially, in the aggregate, more than 5 per cent of the voting stock of the intermediate stock holding company or the reorganized insurer.

(4) The officers and directors of the mutual holding company, an intermediate stock holding company or the reorganized insurer shall not own beneficially, in the aggregate, more than 18 per cent of the voting stock of the intermediate stock holding company or the reorganized insurer; provided, however, that the commissioner may, in the event of a distress situation find that beneficial ownership of more than 18 per cent is necessary and appropriate.

(5) In no event shall any person, directly or indirectly, offer to acquire or acquire in any manner beneficial ownership of more than 10 per cent of any class of voting securities

of the reorganized insurer, any intermediate stock holding company or any other institution which owns, directly or indirectly, a majority of the voting securities of the reorganized insurer without the prior approval of the commissioner.

(6) If the mutual holding company elects to cause an intermediate stock holding company or the reorganized insurer to conduct an initial public offering or initial private equity placement or the initial issuance of voting stock or securities convertible into voting stock of the reorganized insurer or the intermediate stock holding company, it shall, subject to any limitations necessary or appropriate under law applicable to particular classes of policyholders, cause each eligible person to receive stock purchase rights in connection with such initial offering unless a committee of its board of directors consisting of its outside directors determines, by vote of at least two-thirds of the members of such committee, that a stock purchase rights offering would not be in the best interests of its policyholders. Such determination shall be approved by the commissioner.

(7) Any voting stock or securities convertible into voting stock held by officers and directors of the mutual holding company, the intermediate stock holding company and the reorganized insurer shall not be sold for a period of at least one year following the date of the initial offering of such securities, except in the event of death or disability of such officer or director.

(8) Nothing in sections 19F to 19W, inclusive, shall prevent the mutual holding company, the intermediate stock holding company or the reorganized insurer from issuing stock of the intermediate stock holding company or the reorganized insurer to a trust established in connection with an employee stock ownership plan or other employee benefit plan established for the benefit of the employees of the mutual holding company, the intermediate stock holding company or the reorganized insurer and qualified under the Internal Revenue Code. No individual may receive more than 12.5 per cent of any such plan and directors who are not employees shall not receive more than 2.5 per cent of the stock individually or 15 per cent in the aggregate of any plan but in no event shall any individual exceed the limitation on ownership contained in paragraph (4). The voting shares initially issued to employee stock ownership plans or other employee benefit plans, in the aggregate, shall not exceed 5 per cent of the voting shares initially issued.

(9) For purposes of this section, an officer shall mean a person elected as an officer by the board of directors of the mutual holding company, an intermediate stock holding company or the reorganized insurer.

(10) For purposes of this section, an outside director is a director of the mutual holding company, the intermediate stock holding company or the reorganized insurer who is not an officer or employee of either the mutual holding company, the intermediate stock holding company or the reorganized insurer.

Section 19S. (a) Two or more mutual holding companies, at least one of which is a domestic company, may merge or consolidate under the laws of any state of the United States, into a mutual holding company incorporated under the laws of such state. The resulting corporation may be a continuing corporation under the name of one or more of the

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merged or consolidated corporations or a new corporation. If the continuing or new corporation is to be a domestic corporation: (i) it shall be subject to the provisions of sections 19F to 19W, inclusive, (ii) its name shall be subject to approval by the commissioner and the provisions of section 11 of chapter 156B, (iii) the members of any mutual holding company whose existence will cease upon the effectiveness of such merger or consolidation shall become members of the continuing mutual holding company, and (iv) all persons with equity rights in any mutual holding company whose existence will cease upon the effectiveness of such merger or consolidation shall have equity rights in the continuing mutual holding company.

(b) Companies merging or consolidating under this section shall enter into a written agreement for such merger or consolidation prescribing its terms and conditions. Such agreement shall be assented to by a vote of the majority of the board of directors of each domestic company participating in such merger or consolidation and approved by the votes of at least two-thirds of the members of such company as are present and voting at a special meeting called for the purpose, notice of which meeting shall be given to such persons and in such manner as provided by the commissioner. Such agreement shall be subject to the written approval of the commissioner, who may consider the fairness of the terms and conditions of the agreement, whether the interests of the members of each domestic mutual holding company that is a party to the agreement are protected, and whether the proposed merger or consolidation is in the public interest.

(i) If the continuing or new mutual holding company is to be a domestic company, such agreement shall be executed in duplicate by the president and secretary and by a majority of the board of directors of each company under its corporate seal, shall be accompanied by copies of the resolutions authorizing the merger or consolidation and the execution of the agreement attested by the recording officer of each company and shall, with the records of the companies pertaining thereto, be submitted to the commissioner. If it appears that the requirements of this section have been complied with, the commissioner may so certify and approve the agreement by the commissioner's endorsement thereon. One of the duplicates of such agreement shall thereupon be filed with the state secretary, who shall cause the same to be recorded and shall issue a certificate of reincorporation to the continuing company or the new company with the powers retained and specified in the agreement, and the other duplicate shall be retained by the commissioner. No such agreement shall take effect until it has been filed with the state secretary.

(ii) If the continuing or new company is to be a foreign company, such agreement, and such other information as the commissioner may require, shall be filed with the commissioner and shall not be executed until approved by the commissioner. Upon the execution of such agreement, the new or continuing company shall file with the commissioner, in such form as the commissioner may require, documentary evidence thereof, showing the date when the merger or the consolidation shall become effective. If the commissioner finds that such agreement has been executed in accordance with the commissioner's authorization, the commissioner shall file forthwith with the state secretary

a certificate setting forth the fact, including said effective date, and the corporate existence of such company shall cease and determine on said effective date.

(c) No action or proceeding pending in any court of the commonwealth at the time of the merger or consolidation in which any such domestic company may be a party shall abate or be discontinued by reason of the merger or the consolidation, but may be prosecuted to final judgment in the same manner as if the merger or the consolidation had not taken place, or the continuing, surviving or resulting company may be substituted in place of any such domestic company by order of the court in which the action or proceeding is pending.

(d) If the new or continuing company is a domestic company, upon such merger or consolidation all rights and properties of the several companies shall accrue to and become the property of the continuing corporation or the new company which shall succeed to all the obligations and liabilities of the merged or consolidated companies, in the same manner as if they had been incurred or contracted by it.

(e) Nothing in this subsection shall authorize the merger or consolidation of stock companies with mutual holding companies.

Section 19T. (a) By complying with the provisions of sections 19F to 19W, inclusive, a domestic mutual insurance company may reorganize with an existing domestic or foreign mutual holding company, in which case the plan of reorganization of the domestic mutual insurer shall provide that the domestic mutual insurer will become a domestic stock insurer, that the members of the domestic mutual insurer will become members of the mutual holding company, that the owners of policies issued by the domestic mutual insurer and in force on the effective date shall as of the effective date have equity rights in the mutual holding company, and that the mutual holding company will acquire, directly or through one or more intermediate stock holding companies, at least 51 per cent of the voting stock of the reorganized insurer.

(b) An existing domestic mutual holding company may, with the approval of the commissioner:

(i) acquire direct or indirect ownership of a converting foreign mutual insurer that becomes a stock insurer in compliance with the law of its state of domicile;

(ii) grant membership interests and equity rights to the members or policyholders of a foreign mutual insurer that merges with a direct or indirect domestic or foreign subsidiary of the domestic mutual holding company and such a subsidiary, if it is a domestic insurer, may merge with such a foreign mutual insurer pursuant to section 19A or 19B notwithstanding the provisions in said sections to the effect that they do not authorize mergers between mutual insurers and stock insurers.

The commissioner may consider the fairness of the terms and conditions of the transaction, whether the interests of the members of each domestic mutual holding company that is a party to the transaction are protected, and whether the proposed transaction is in the public interest.

Section 19U. (a) A domestic mutual holding company may convert into a domestic stock corporation pursuant to a plan of conversion which complies with subsection (b).

(b) (1) The commissioner shall hold a public hearing upon the fairness of the terms and conditions of the plan of conversion, the reasons and purposes for the conversion of the mutual holding company, and whether the conversion is in the best interest of said mutual holding company and is fair and equitable to its members, and not detrimental to the insuring public. Notice stating the time, place and purpose of the hearing shall be mailed by the converting mutual holding company to each policyholder, at his last known address as shown on the records of the converting mutual holding company; except in instances where mailing of notice is not feasible as determined by the commissioner. Such notice shall be mailed at least 60 days prior to the date of the hearing. Such notice shall be preceded or accompanied by a true and complete copy of the plan, or by a summary thereof approved by the commissioner, and such other explanatory information as the commissioner shall approve or require. In addition, the converting mutual holding company shall give notice of the time, place and purpose of the hearing by publication in three newspapers of general circulation, one in the county in which the converting mutual holding company has its principal office and two in other cities within or without the state approved by the commissioner; such newspaper publications shall be made not less than 15 days nor more than 60 days prior to the hearing, and shall be in a form approved by the commissioner. The directors, officers, employees and policyholders of the reorganized insurer shall have the right to appear and be heard at such hearing.

(2) The commissioner shall, after the public hearing required by paragraph (1), approve the plan of conversion if he finds that: the proposed conversion is in the best interests of the converting mutual holding company; the plan is fair and equitable to the policyholders of the reorganized insurer; the plan provides for the enhancement of the operations of the converting mutual holding company; the plan will not substantially lessen competition in any line of insurance business and, when completed, complies with the requirements of sections 19F to 19W, inclusive. The commissioner shall approve or disapprove the plan in writing on or before 60 days after the conclusion of the public hearing required by paragraph (1). If approval is denied, the denial shall be in writing setting forth a statement of the reasons therefor and the converting mutual holding company shall have the right to a hearing before the commissioner within 30 days of the date of such denial.

(3) A proposal to approve the plan of conversion shall be submitted to the members of the mutual holding company. Such plan shall be approved by vote of not less than two-thirds of the votes of the members of the converting mutual holding company voting thereon in person, by proxy or by mail at a meeting of members called for that purpose. Notice stating the date, time and place of the meeting shall be mailed by the mutual holding company to the policyholders of the reorganized insurer at their last known addresses as shown on the records of the reorganizing insurer, except in instances where mailing of notice is not feasible as determined by the commissioner, and notice given to the holder of a policy shall constitute notice to the member of the mutual holding company whose membership arises from the policy. Such notice shall be mailed at least 30 days prior to the meeting. Such notice may be combined with the notice of public hearing as mailed to policyholders pursuant to

paragraph (1). Such notice shall be preceded or accompanied by a true and complete copy of the plan, or by a summary thereof approved by the commissioner, and such other explanatory information as the commissioner shall approve or require. Each member entitled to vote on the plan of conversion shall vote by written ballot cast in person or by mail or by proxy agent or agents duly appointed by the member.

The commissioner shall have the power to supervise and direct and prescribe the rules governing the procedure for the conduct of voting on the proposal to such extent, consistent with the provisions of sections 19F to 19W, inclusive, as he deems necessary to insure a fair and accurate vote; such powers shall include, but not be limited to, power to supervise and regulate (i) the determination of members entitled to notice of and to vote on the proposal; (ii) the giving of notice of the proposal; (iii) the receipt, custody, safeguarding, verification and tabulation of proxy forms and ballots; and (iv) the resolution of disputes.

(4) Upon approval pursuant to this section, the conversion shall be effective as of the date specified in the plan. Upon the effective date of the plan of conversion, all membership interests and equity rights in the mutual holding company shall be extinguished. On and after such date, all the rights, franchises and interests of the mutual holding company in and to every species of property shall be vested in the converted holding company without any deed or transfer and the converted holding company shall succeed to all the obligations and liabilities of the mutual holding company.

(5) In exchange for equity rights in the mutual holding company, such plan shall provide for appropriate consideration. Said consideration shall be equal, in the aggregate, to the value of the entire capital and surplus of the mutual holding company excluding any funds required to be held in segregated accounts by federal statute and shall be determinable under a fair and reasonable formula approved by the commissioner. If the plan of conversion provides for the mutual holding company to continue as a surviving corporation after the conversion, then consideration to the policyholders shall be in the form of stock, cash or other such form of compensation as is approved by the commissioner. Distribution of all of the stock of the former mutual holding company to eligible policyholders, or in the case of certain eligible policyholders other consideration of equivalent value, shall constitute appropriate consideration under sections 19F to 19W, inclusive. If the plan of conversion does not provide for the mutual holding company to continue as a surviving corporation after the conversion, then consideration payable shall be in such form as is otherwise permitted in this section shall be distributed to eligible policyholders.

(6) Such plan shall give each person holding equity rights a preemptive right to acquire his proportionate part of all of the proposed capital stock of the converted holding company, and to apply upon the purchase thereof the amount of their consideration, as determined under paragraph (5), except that the plan may provide that such person may not purchase or receive stock pursuant to this section if it has an aggregate subscription price of \$2,000 or less and that such preemptive right will not apply to such persons who reside in jurisdictions in which the issuance of stock is impossible, would involve unreasonable delay or would require the converting company to incur unreasonable costs; provided, however,

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that any such person shall receive their consideration in cash; and, provided further, in the instance of a plan of conversion in which the appropriate consideration received by persons under paragraph (5) is stock of a corporation in a transaction authorized under this section, or other consideration as approved by the commissioner or, without limiting the generality of the foregoing, as permitted under this paragraph, the plan of conversion shall provide either (i) that no member or person holding equity rights shall have any preemptive right to acquire any of the proposed capital stock of the converted holding company or of the proposed parent or other corporation, or (ii) for preemptive rights on such other terms as approved by the commissioner.

Notwithstanding the foregoing, the commissioner shall have the authority to disapprove such plan in accordance with the provisions of paragraph (2).

(7) The person eligible to participate in the distribution of consideration and to purchase stock shall be the person whose name appears on the conversion date on the mutual holding company's records as a person holding equity rights on both December 31 immediately preceding the conversion date and the date the mutual holding company's board of directors first voted to convert to stock form.

(8) Shares are to be offered to persons holding equity rights at a price not greater than to be thereafter offered under the plan of conversion to others.

(9) Such plan shall provide for payment to each person holding equity rights of consideration which may consist of cash, securities, a certificate of contribution, additional insurance under policies issued by a reorganized insurer or other consideration or any combination of such forms of consideration.

(10) The commissioner shall find that the mutual holding company's management has not, through reduction in volume of new business written or cancellation by a reorganized insurer, or through any other means, sought to reduce, limit or affect the number or identity of the mutual holding company's members or persons holding equity rights to be entitled to participate in such plan or to otherwise secure for the individuals comprising management any unfair advantage through such plan.

(11) Nothing in this section shall be deemed to prohibit the inclusion in the plan of conversion of provisions under which the individuals comprising the management and employee group of the mutual holding company, reorganized insurer or an intermediate stock holding company shall be entitled to purchase for cash at the same price as offered to persons holding equity rights, shares of stock not taken by persons holding equity rights on the preemptive offering to persons holding equity rights, in accordance with such reasonable classification of such individuals as may be included in the plan of conversion and approved by the commissioner.

(12) The plan of conversion may also include provisions restricting the ability of any person or persons acting in concert from directly or indirectly offering to acquire or acquiring the beneficial ownership of 10 per cent or more of any class of voting stock of the converted holding company or the parent corporation or other corporation.

(13) No director, officer, agent or employee of the mutual holding company, or any

other person, shall receive any fee, commission or other valuable consideration whatsoever, other than his usual regular salary and compensation, for in any manner aiding, promoting or assisting in such conversion, except as set forth in the plan of conversion approved by the commissioner. This provision shall not be deemed to prohibit the payment of reasonable fees and compensation to attorneys at law, accountants and actuaries for services performed in the independent practice of their professions, even though they may be directors of the mutual holding company.

(14) For the purposes of determining whether a plan of conversion meets the requirements of this section and any other relevant provisions of any general or special law, the commissioner may employ staff personnel and private consultants. All reasonable costs related to the review of a plan of conversion, including costs attributable to the use of staff personnel, shall be borne by the mutual holding company making the filing.

Section 19V. Any transaction entered into by a mutual insurer, either during or after the reorganization process authorized by sections 19F to 19W, inclusive, a principal purpose of which is to avoid the total gross investment income earned excise imposed by section 22A of chapter 63 or the investment privilege excise imposed by section 22B of said chapter 63 shall be disregarded by the department of revenue for purposes of computing said excise for the reorganized insurer. The department of revenue, in consultation with the division of insurance, shall promulgate rules and regulations necessary to implement the provisions of this section, and may consult with representatives of the insurance industry and practitioners.

Section 19W. The commissioner shall promulgate regulations necessary to implement the provisions of sections 19F to 19U, inclusive.

Approved July 31, 1998.

Chapter 199. AN ACT AUTHORIZING THE CITY OF BROCKTON TO ENTER INTO CONTRACTS FOR THE OPERATION AND MAINTENANCE, LEASE OR SALE AND MODIFICATIONS OF THE WASTEWATER AND WATER TREATMENT FACILITIES PLANT, SEWER AND PUMP STATIONS.

Be it enacted, etc., as follows:

SECTION 1. The city of Brockton may enter into a contract or contracts for the lease or sale, operation and maintenance, financing, design and construction of modifications and installation of new equipment and systems necessary at the wastewater treatment facility plant, sewers and pump stations to ensure adequate services and to ensure the ability of said city's wastewater treatment facilities plant, and water treatment facility located at Silver Lake as well as sewers, water, delivery systems and pump stations to operate in full compliance with all applicable requirements of federal, state and local law; provided, however, that any such contract or contracts shall not be subject to the competitive bid requirements set forth

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in sections 38A½ to 38 O, inclusive, of chapter 7, section 39M of chapter 30 or sections 44A to 44M, inclusive, of chapter 149 of the General Laws; and provided, further, that each such contract shall be awarded pursuant to the provisions of chapter 30B of the General Laws except for clause (3) of paragraph (b) of section 6, clause (3) of paragraph (e) of said section 6, clause (4) of section 13 and section 16 of said chapter 30B.

The request for proposals for such contract shall specify the method for comparing proposals to determine the proposal offering the lowest cost to said city taking into consideration comprehensiveness of services, energy or water cost savings, cost to be paid by said city, and revenues to be paid to said city. If said city awards the contract to an offeror who did not submit the proposal offering the lowest overall costs, said city shall explain the reason for the award in writing.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, any such contract awarded pursuant to section 1 may provide for a term, not exceeding 20 years and an option for renewal or extension for operations and maintenance services not exceeding an additional five years. Such renewal or extension shall be at the sole discretion of the city of Brockton in accordance with the original contract terms and conditions or contract terms and conditions more favorable to and acceptable to said city. A contract of renewal may further provide that said city shall not be exempt from liability thereon, subject to a majority vote of the municipal council of said city. A contract entered into pursuant to this act may provide that, subject to a majority vote of the city council, the city shall not be exempt from liability for payment of the costs to finance, permit, design and construct modifications or install new equipment and systems at the wastewater and water treatment facilities plant, sewers and pump stations necessary to ensure the ability of said wastewater or water treatment facilities plant, sewers and pump stations to operate in full compliance with all applicable requirements of federal, state, and local law, provided that such costs shall be amortized over a period that is no longer than the useful life of said modifications, equipment, and system. The city's payment obligations for all operations and maintenance services shall be conditioned on the contractor's performance of said services in accordance with all contractual terms.

A contract entered into pursuant to this act may provide for such activities as may be deemed necessary to carry out the purposes authorized herein, including, but not limited to, equipment purchases, facility or land sale or lease, equipment installation and replacement, performance testing and operation, studies, design and engineering work, construction work, ordinary repairs and maintenance and the furnishing of all related material, supplies and services required for the wastewater, and water treatment facilities plant, sewers, and pump stations and the management, operation, maintenance and repair of said city's wastewater and water treatment facilities plant, sewers and related pump stations, pipes, water delivery systems not existing or to be developed.

SECTION 3. The chief financial officer of the city of Brockton, in consultation with the chief procurement officer, shall solicit proposals through a request for proposals which shall include those items in clauses (1) and (2) of paragraph (b) of section 6 of chapter 30B

of the General Laws and proposed key contractual terms and conditions to be incorporated into the contract, some of which may be deemed mandatory or nonnegotiable; provided, however, that such request for proposals may request proposals or offer options for fulfillment of other contractual terms, and such other matters as may be determined by said city.

SECTION 4. The chief financial officer of the city of Brockton, in consultation with the chief procurement officer, shall make a preliminary determination of the most advantageous proposal from a responsible and responsive offeror taking into consideration price, estimated life-cycle costs and the other evaluation criteria set forth in the request for proposal. Said chief financial officer may negotiate all terms of the contract not deemed mandatory or nonnegotiable with such offeror. If, after negotiations with such offeror, said chief financial officer determines that it is in said city's best interest, said chief financial officer may initiate negotiations with the next most advantageous proposal from a responsible and responsive offeror taking into consideration price, estimated life-cycle costs and other evaluation criteria set forth in the request for proposals, and may negotiate all terms of the contract not deemed mandatory or nonnegotiable with such offeror. Said chief financial officer shall award the contract to the most advantageous proposal from a responsible and responsive offeror taking into consideration price, estimated life-cycle costs, the evaluated criteria set forth in the request for proposals and the terms of the negotiated contract. Subject to the approval of the mayor and the city council, the chief financial officer, in consultation with the chief procurement officer, shall award the contract by written notice to the selected offeror within the time for acceptance specified in the request for proposals. Such award shall be subject to sections 5 and 6. The parties may extend the time for acceptance by mutual agreement.

SECTION 5. Notwithstanding any other provisions of this act, it shall be a mandatory term of any request for proposal issued by the city of Brockton and of any contract entered into by said city with any party regarding the subject matter of this act, that any party that entered into a contract pursuant to the terms of this act with said city, shall require, in order to maintain stable and productive labor relations and to avoid interruption of the operation of the plant and to preserve the health, safety and environmental conditions of the residents of said city and surrounding communities, that any and all employees working on the operation and maintenance of the wastewater and water treatment plants, sewers and pumping stations be offered employment by any party entering into contract with said city for the operations and maintenance of said facilities, and furthermore, said party entering into a contract with said city shall adopt all terms and conditions of employment provided by the last applicable labor agreement negotiated between a labor organization representing said employees and the applicable employer who has most recently employed said employees prior to entering into any contracts pursuant to this act, and provided that any party entering into said contract with said city pursuant to this act will pay all said employees no less than the sum of the applicable wages paid to said employees by their previous employer and by said city, if applicable. Moreover, said parties shall furthermore agree to meet its legal obli-

gations with regard to any labor organization representing employees engaged in the operations and maintenance of the wastewater and water treatment plants, sewers and pumping stations described herein. Notwithstanding any other provisions of this act, any proposal or contract for this purpose and not complying with the above terms shall be automatically disqualified from consideration.

SECTION 6. Subject to the provisions of this act, any contract awarded pursuant to this act shall be subject to such terms and conditions as the mayor and the city council shall determine to be in the best interest of the city of Brockton and shall be subject to a majority vote of said city council. Any such contract shall provide that prior to the construction, modification or installation of equipment and systems the city shall cause a qualified wastewater engineer to independently review and approve plans and specifications for said modifications, equipment, and systems. Such contract shall further provide that prior to the city's acceptance of any modifications, equipment, or systems, including work undertaken pursuant to section 8 and estimated to cost more than \$100,000, the city shall cause a qualified wastewater engineer to inspect said modifications, equipment, and systems and certify that the construction or installation has been completed in accordance with the approved plans and specifications.

SECTION 7. Notwithstanding the provisions of any general or special law or regulation to the contrary, the department of environmental protection may issue project approval certificates with respect to the contract procured by the city of Brockton for wastewater and water treatment facilities improvements and any design and construction services included in such contracts shall be eligible for assistance under the Water Pollution Abatement Trust, established by section 2 of chapter 29C of the General Laws.

SECTION 8. The provisions of any general or special law or regulation relating to the advertising, bidding or award of contracts, to the procurement of services or to the construction and design of improvements shall not be applicable to any selected offeror which is awarded a contract pursuant to this act. Any contract changes entered into pursuant to this act shall provide that the selected offeror in performing any installation or replacement work for any contract in excess of \$100,000 at the wastewater, and water treatment plant, sewers, and pump stations shall except in emergency situations solicit at least three bids for such work and shall award such work to the lowest responsible and qualified bidder. In soliciting bids, the contractor shall prepare detailed plans and specifications for and publicly advertise and notice the request for bids. The solicitation shall be open to all qualified bidders. All contracts for such work shall be subject to the requirement of the city ordinances of the city of Brockton relating to the employment of residents of said city in municipal construction projects. The contractor may act as an agent of the city in the solicitation of bids for the construction of any new capital improvement or for any renovation, modernization, installation, or replacement work pursuant to this section, provided that the city shall cause a qualified wastewater engineer to independently assess the need for such capital improvement, renovation, modernization, installation or replacement work and to review and approve the contractor's proposed plans and specifications prior to advertising for bids. Based on the

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recommendation of the qualified wastewater engineer, the city may approve, modify, or reject the contractor's proposed plans and specifications. Any contract or contracts awarded pursuant to this act shall provide that in the event that the city does not approve the contractor's proposed plans and specifications pursuant to this section, the city or the contractor may terminate said contract or contracts under the terms and conditions of said contract or contracts.

SECTION 9. All contracts or subcontracts for new construction, renovations, modernization improvement or capital improvements to the wastewater and water treatment facilities in the city of Brockton, including but not limited to all treatment facilities and pump stations shall be awarded only to persons or entities whose bids or proposals are subject to said persons or entities being signatory to a project labor agreement with the appropriate labor organization which includes an obligation for said labor organizations and its constituents members not to strike with respect to the work on said construction project and which also establishes uniform work rules and schedules for the project. Said project agreement shall be entered into in order to facilitate the timely and efficient completion of the construction of said improvements and make available a ready and adequate supply of highly trained skilled craft workers which shall provide a negotiated commitment which is a legally enforceable means of assuring labor stability and labor peace over the life of this project. The applicable entity responsible for any construction renovation, modernization, improvement, or capital improvement to the wastewater and water treatment plant and pumping stations shall designate a general contractor project manager or similar construction firm which is familiar in the negotiation and administration of project labor agreements to manage and oversee the construction of the project, including the development and implementation of labor relation policies for the project, and to instruct such general contractor, project manager or other construction firm to negotiate a mutually agreeable project labor agreement covering the above-described work. All contracts for such work shall be subject to the requirements of the city ordinance relating to the employment of residents of said city in municipal construction projects.

SECTION 10. This act shall take effect upon its passage.

Approved July 31, 1998.

**Chapter 200. AN ACT AUTHORIZING THE SOUTH HADLEY HOUSING
AUTHORITY TO CONVEY A CERTAIN PARCEL OF LAND.**

Be it enacted, etc., as follows:

The South Hadley Housing Authority is hereby authorized to sell and convey a certain parcel of land with the buildings thereon located in the town of South Hadley, and being more particularly described as follows:

Beginning at the highway known as Ferry Street, at the Southeast corner of land now

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or formerly of Frederick W. Brockway; thence running

NORTHERLY : by land now or formerly of said Brockway, fifty-five (55) rods and twelve (12) links to a stake and stones at land now or formerly of Samuel G. Bray; thence running

EASTERLY : by land of said Bray a distance of nineteen (19) rods and twelve (12) links to a stake and stones at land now or formerly of William Krug; thence

SOUTHERLY : by land now or formerly of said Krug, sixty-two (62) rods and seven (7) links to a stone post which is the line of the said stone post which is the line of the said highway; thence

WESTERLY : along the line of said highway, nine (9) rods and nineteen (19) links to the place of beginning, containing five (5) acres, more or less.

Excepting from the above described property, the parcel of land conveyed to Ora B. Thornton, by deed being dated June 2, 1954, recorded with Hampshire county registry of deeds, Book 1168, Page 477, said exception consisting of a strip 25 feet on Ferry street by a depth of 279 feet at the Easterly end of the premises hereinbefore described. Said parcel being shown in a deed recorded in the Hampshire county registry of deeds in Book 3751, Page 203.

Notwithstanding the provisions of chapter 121B of the General Laws, the proceeds from the sale of said real estate shall be retained by said South Hadley Housing Authority and, subject to approval by the department of housing and community development, shall be used for the maintenance, remodeling or improvement of existing state assisted public housing under the control of said South Hadley Housing Authority.

Approved July 31, 1998.

Chapter 201. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF BELLINGHAM.

Be it enacted, etc., as follows:

Article 8-5-4(c)1 of the charter of the town of Bellingham, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by adding the following:-

A Town Common Trustees Committee.

Said committee shall consist of five members serving staggered three year terms. Vacancies shall be filled by a joint vote of the board of selectmen and the remaining members of the committee. Said committee shall have the responsibility of overseeing the maintenance and care of the town common.

Approved July 31, 1998.

Chapter 202. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND IN THE TOWN OF HALIFAX.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital planning and operations is hereby authorized, notwithstanding the provisions of section 40H of chapter 7 of the General Laws, to convey by deed, a certain parcel of land along Aldana road located in the town of Halifax, and under the control of the division of fisheries and wildlife, to the town of Halifax for road improvements to said Aldana road and subject to the requirements of sections 2, 3, 4 and 5 and to such additional terms and conditions as said commissioner may prescribe in consultation with the division of fisheries and wildlife.

Said parcel of land contains 0.9 acres, more or less, and is more fully shown on a plan entitled "DECREE NO. 1516, PLAN OF ALDANA ROAD IN THE TOWN OF HALIFAX; As laid out by the county Commissioners under petition of the Selectmen filed by December 17, 1985; Joseph F. Monahan, Consulting Engineer".

SECTION 2. No deed by or on behalf of the commonwealth conveying the property described in section 1 shall be valid unless such deed provides that said property shall be used for road improvements to Aldana road in the town of Halifax.

SECTION 3. The town of Halifax shall pay the costs of appraisals, surveys and other expenses deemed necessary by the commissioner of the division of capital planning and operations for the conveyance of the property described in section 1.

SECTION 4. Title to the parcel of land described in section 1 shall revert to the commonwealth, without consideration, if within five years from the effective date of this act said land is not used for the purpose stated in section 2, or if the land is used for any other purpose upon notice by the commissioner of the division of capital planning and operations.

SECTION 5. Notwithstanding the provisions of any general or special law to the contrary, the conveyance authorized by section 1 shall not be made unless the town of Halifax, in full consideration of said conveyance, conveys to the commonwealth, acting through the division of capital planning and operations, for use by the division of fisheries and wildlife, a certain parcel of land containing approximately 7.32 acres shown as Parcel B on a "Plan of Land on Aldana Road in Halifax, MA", dated April 22, 1991, prepared by Land Planning Engineering & Survey.

Approved July 31, 1998.

Chapter 203. AN ACT RELATIVE TO THE TAXATION OF CERTAIN REAL PROPERTY.

Be it enacted, etc., as follows:

Chapter 59 of the General Laws is hereby amended by inserting after section 2C the following section:-

Section 2D. (a) In any city or town which accepts the provisions of this section pursuant to subsection (f), whenever in any fiscal year real estate improved in assessed value by over 50 per cent by new construction is issued a temporary or permanent occupancy permit after January 1 in any year, the owner of the real estate shall pay a pro rata amount or amounts, as herein defined, to the city or town where such real estate is located that would have been due for the applicable fiscal year under this chapter if the real estate had been so improved on the assessment date for the fiscal year in which the occupancy permit issued. The amounts payable to the city or town shall be determined as follows:

(1) A real estate tax based on the assessed value of the improvement for the fiscal year in which such improvement and issuance of an occupancy permit occurred allocable on a pro rata basis to the days remaining in the fiscal year from the date of the issue of the occupancy permit to the end of the fiscal year; and

(2) A real estate tax based on the assessed value of the improvement for the succeeding fiscal year where the occupancy takes place between January 1 and June 30 of any year.

(b) A real estate tax based on the assessed value of the improvement shall be computed by applying the tax rate or the appropriate classified tax rate of the city or town for the fiscal year in which such improvement and issuance of an occupancy permit occurs to the assessed value of the improvement as if the real estate had been so improved on January first of the year of occupancy.

(c) Such amounts shall be paid by the property owner to the collector of the city or town within 30 days of the date of issuance by said city or town of a notification of such liability to said property owner or the date by which a tax assessed upon real estate would otherwise be payable without interest for the applicable fiscal year, whichever is later. Any amount not paid by the said date shall bear interest from the said date at the rate per annum provided in section 57. The collector shall have for the collection of sums assessed under this section all remedies provided by chapter 60 for the collection of taxes upon real estate.

(d) A person upon whom a tax has been assessed pursuant to the provisions of this section shall have all remedies provided by section 59 and section 64 of chapter 59 and all other applicable provisions of the General the abatement and appeal of taxes upon real estate.

(e) Whenever in any fiscal year, the assessed value of real estate is decreased by over 50 per cent as the result of fire or natural disaster, the city or town shall abate or refund taxes received, as the case may be, in an amount to be calculated in the same manner as a real estate tax increase, based on the assessed value of an improvement, is calculated pursuant to the provisions of this section.

(f) The local appropriating authority, as defined in section 21C, may submit to the voters at any city or town election the following question, which the city or town clerk shall cause to be printed on the municipal ballot: "Shall the (city or town) accept section 2D of chapter 59 of the General Laws, which provides for taxing certain improved real property based on its value at the time an occupancy permit is issued?" If a majority of the votes cast on said question is in the affirmative, the city or town shall be deemed to have accepted this section, but not otherwise.

Approved July 31, 1998.

Chapter 204. AN ACT AUTHORIZING THE CITY OF BROCKTON TO CONVEY CERTAIN LAND KNOWN AS THE MONTELLO POOL.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the city of Brockton is hereby authorized to sell, convey, lease or otherwise dispose of a certain parcel of real estate in said city of Brockton described in Certificate of Title Number 22608 issued by the registry district of Plymouth county, Land Court Case Number 12098, known as the Montello Pool, free and clear of the condition that said land shall be used only for a swimming pool and other park and recreational purposes and such condition is hereby extinguished.

SECTION 2. The city of Brockton shall comply with the provisions of chapter 30B of the General Laws in disposing of said land.

SECTION 3. The proceeds of any conveyance authorized by this act shall be used only for acquisition of land for park purposes or for capital improvements to park land.

SECTION 4. This act shall take effect upon its passage.

Approved August 1, 1998.

Chapter 205. AN ACT EXTENDING CERTAIN CAPITAL SPENDING AUTHORIZATIONS.

Be it enacted, etc., as follows:

SECTION 1. To provide for the continued availability of certain capital spending authorizations which otherwise would expire on June 30, 1998, the unexpended balances of the items set forth below are hereby extended through June 30, 1999 for the purposes of and subject to the conditions stated for said items in the original authorizations thereof and any amendments thereto.

0330-7872	1102-7842	1102-7887	1102-8814
0330-8890	1102-7843	1102-7888	1102-8819
0330-8891	1102-7844	1102-7890	1102-8822
0332-8811	1102-7846	1102-7891	1102-8841
0431-8811	1102-7848	1102-7893	1102-8847
0431-8833	1102-7849	1102-7894	1102-8869
0610-8900	1102-7870	1102-7896	1102-8872
1100-1560	1102-7871	1102-7897	1102-8873
1100-7850	1102-7872	1102-7930	1102-8874
1100-8880	1102-7881	1102-8791	1102-8875
1102-0890	1102-7882	1102-8792	1102-8877
1102-6896	1102-7883	1102-8801	1102-8878
1102-7840	1102-7885	1102-8804	1102-8880
1102-7841	1102-7886	1102-8812	1102-8883

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1102-8888	2150-7874	2440-7849	3722-9030
1102-8890	2150-7880	2440-7875	4000-7890
1102-8891	2150-7890	2440-7881	4000-8000
1102-8892	2150-7891	2440-7882	4000-8100
1102-8893	2200-7883	2440-7890	4000-8200
1102-8894	2200-7884	2440-7892	4000-8300
1102-8895	2200-7888	2440-7894	4000-8840
1102-8897	2240-8820	2440-7895	4010-8831
1102-8899	2240-8860	2440-7896	4043-8870
1102-9802	2250-1001	2440-7898	4180-7880
1102-9845	2250-7874	2440-8795	4180-7881
1102-9880	2250-8820	2440-8798	4180-7882
1102-9882	2250-8822	2440-8802	4180-7883
1102-9884	2250-8823	2440-8819	4180-7884
1102-9891	2250-8844	2440-8840	4180-7890
1102-9893	2250-8860	2440-8843	4180-7891
1102-9896	2250-8863	2440-8848	4190-7881
1102-9897	2250-8864	2440-8873	4190-7883
1102-9898	2250-8865	2440-9812	4238-7881
1102-9899	2260-8840	2440-9843	4238-8871
1599-8000	2260-8880	2440-9844	4311-7880
1790-8921	2260-9881	2440-9846	4311-7881
2000-8842	2260-9882	2444-8842	4311-7890
2000-9841	2260-9884	2449-7350	4311-8813
2100-7871	2260-9885	2449-8754	4313-8841
2120-7871	2260-9886	2449-8755	4314-8872
2120-7873	2270-8772	2490-0009	4315-8841
2120-7875	2300-8840	2490-0010	4315-8891
2120-7880	2310-7880	2490-0012	4400-1111
2120-7882	2310-7891	2511-8885	4510-7880
2120-7885	2310-7892	2681-9029	4510-7890
2120-8805	2320-8843	2685-9050	4516-7890
2120-8812	2320-9880	3722-7870	4530-8300
2120-8848	2350-7880	3722-7871	4530-8310
2120-8861	2410-7872	3722-8864	4530-8400
2120-8885	2410-8802	3722-8865	4530-8490
2120-9841	2420-7880	3722-8866	4530-8500
2120-9842	2420-7881	3722-8871	4530-8600
2120-9843	2420-7882	3722-8872	4530-8610
2122-8846	2420-7884	3722-8873	4530-8620
2130-8771	2420-8936	3722-8874	4530-8630
2150-7873	2440-7848	3722-8875	4530-9999

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4532-7872	5500-8300	5800-8210	7115-7892
4533-7890	5500-8400	5800-8300	7118-7893
4536-7880	5500-8500	5800-8400	7220-7893
4536-7890	5500-8600	5800-8500	7220-7894
4537-7890	5500-8700	5800-8510	7310-7893
4537-7891	5500-8800	5800-8600	7310-7895
4540-8881	5500-8893	5800-8610	7410-7898
4540-8882	5500-8900	5800-8700	7411-7894
5011-7890	5500-9000	5800-8810	7503-7892
5011-8801	5500-9100	5800-9000	7504-7890
5011-8811	5500-9200	5800-9999	7504-7892
5011-8812	5500-9210	5911-7890	7504-8842
5011-8841	5500-9220	5911-7894	7508-7871
5011-8842	5500-9230	6005-8880	7508-7890
5095-6870	5500-9240	6033-6021	7508-7891
5095-8870	5500-9250	6033-8051	7515-7892
5095-8872	5500-9400	6059-0000	7518-7871
5095-8874	5500-9410	7109-7881	7518-7892
5095-8875	5500-9420	7109-7890	8000-9705
5095-8876	5500-9430	7109-7893	8200-8842
5095-8877	5500-9999	7109-8848	8700-7892
5377-7871	5800-8100	7111-7880	8800-7890
5377-8841	5800-8110	7111-7891	9300-3902
5377-8842	5800-8120	7114-7871	9300-3905
5500-8100	5800-8200	7114-7893	9300-3909
5500-8200			

SECTION 2. This act shall take effect as of June 30, 1998.

Approved August 4, 1998.

Chapter 206. AN ACT RELATIVE TO ENVIRONMENTAL CLEANUP AND PROMOTING THE REDEVELOPMENT OF CONTAMINATED PROPERTY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to ensure forthwith environmental cleanup and promote the redevelopment of contaminated property, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 16 of chapter 21A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "of", in line 23, the following words:- oil or.

SECTION 2. Said section 16 of said chapter 21A, as so appearing, is hereby further amended by inserting after the word "twenty-one E", in line 24, the following words:- , or (5) consisted of failure to maintain a permanent solution or a remedy operation status, pursuant to chapter 21E, or (6) consisted of failure to comply with the terms of an activity and use limitation pursuant to section 6 of said chapter 21E.

SECTION 3. Said section 16 of said chapter 21A, as so appearing, is hereby further amended by inserting after the word "of", in line 149, the following words:- oil or.

SECTION 4. Said section 16 of said chapter 21A, as so appearing, is hereby further amended by inserting after the word "twenty-one E", in line 150, the following words:- , or a failure to maintain a permanent solution or remedy operation status, pursuant to said chapter 21E or a failure to comply with the terms of an activity and use limitation pursuant to section 6 of said chapter 21E.

SECTION 5. The definition of "Waste site cleanup activity opinion" in section 19 of said chapter 21A, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following two sentences:- A waste site cleanup activity opinion shall not be relied upon as sufficient to protect public health, safety, welfare, or the environment unless such opinion is rendered by a hazardous waste site cleanup professional licensed pursuant to sections 19 to 19J, inclusive, who (a) is qualified by appropriate education, training, and experience, and (b) (1) in the case of an opinion related to an assessment, has either (i) managed, supervised or actually performed such assessment, or (ii) periodically reviewed and evaluated the performance by others of such assessment; or (2) in the case of an opinion related to a containment or removal action, has either (i) managed, supervised or actually performed such action, or (ii) periodically observed the performance by others of such action, to determine whether the completed work has complied with the provisions of chapter 21E and the Massachusetts Contingency Plan promulgated pursuant to said chapter. A successor hazardous waste site cleanup professional may render a waste site cleanup activity opinion regarding response actions performed under a previous hazardous waste site cleanup professional, and that opinion may be relied upon as sufficient to protect public health, safety, welfare, or the environment, only when the successor hazardous waste site cleanup professional has: (a) reviewed all reasonably available documentation known to the successor hazardous waste site cleanup professional that describes previous releases, site assessment activities and results, and work performed in connection with the assessment, containment or removal action that is the subject of the opinion; (b) conducted a site visit to observe current conditions and to verify the completion of as much of the work as is reasonably observable; and (c) concluded, in the exercise of his independent professional judgment, that he has sufficient information upon which to render the waste site cleanup activity opinion.

SECTION 6. Section 19A of said chapter 21A, as so appearing, is hereby amended

by striking out, in lines 16 and 17, the words "be a full time employee of a firm engaged in the manufacturing and processing of petroleum products" and inserting in place thereof the following words:- have significant experience in the assessment or redemption of sites contaminated with petroleum.

SECTION 7. Section 2 of chapter 21E of the General Laws, as so appearing, is hereby amended by inserting before the definition of "Assess and assessment" the following definition:-

"Activity and use limitation", a restriction, covenant or notice concerning the use of real property which is imposed upon real property by a property owner or the department pursuant to and in accordance with this chapter and regulations promulgated hereunder.

SECTION 8. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by inserting after the definition of "Commissioner" the following two definitions:-

"Community Development Corporation", a community development corporation created and operated in accordance with the provisions of chapter 40F.

"Condition of substantial release migration", a release of oil or hazardous material that is likely to be transported through environmental media where the mechanism, rate or extent of transport has resulted in or, if not promptly addressed, has the potential to result in: (a) health damage, safety hazards or environmental harm; or (b) a substantial increase in the extent or magnitude of the release, the degree or complexity of future response actions, or the amount of response costs. This section shall be further defined in regulations promulgated by the department. Any person required to notify pursuant to section 7 of this chapter shall notify the department of such condition upon obtaining knowledge thereof, and shall take any appropriate and feasible response actions as may be required by the department.

SECTION 8A. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by inserting after the definition of "Disposal site" the following four definitions:-

"Economic development and industrial corporation", a corporation created and operated in accordance with the provisions of chapter 121C or any other special acts, including, without limitation, chapter 1097 of the acts of 1971.

SECTION 9. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by inserting after the definition of "Disposal site" the following three definitions:-

"Economically distressed area", an area or municipality that has been designated as an economic target area, or that would otherwise meet the criteria for such designation pursuant to section 3D of chapter 23A, or the site of a former manufactured gas plant.

"Eligible person", an owner or operator of a site or a portion thereof from or at which there is or has been a release of oil or hazardous material who:

(i) would be liable under this chapter solely pursuant to clause (1) of paragraph (a) of section 5; and

(ii) did not cause or contribute to the release of oil or hazardous material from or at the site and did not own or operate the site at the time of the release.

"Eligible tenant", a person who acquires occupancy, possession or control of a site,

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or a portion thereof, after a release of oil or hazardous material from or at such site has been reported to the department, who did not cause or contribute to the release and who would not otherwise be liable pursuant to clauses (2) to (5), inclusive, of paragraph (a) of section 5.

SECTION 10. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by striking out, in line 167, the words "vessel and" and inserting in place thereof the following word:- vessel,.

SECTION 11. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by striking out, in line 171, the word "vessel" and inserting in place thereof the following words:- vessel, and (11) after a redevelopment authority, redevelopment agency, community development corporation or economic development and industrial corporation which is not an owner or operator pursuant to this definition takes ownership or possession of a site or a portion thereof, any person who owned or operated such site or portion thereof immediately prior to such redevelopment authority, redevelopment agency, community development corporation or economic development and industrial corporation acquiring ownership or possession of the site or portion thereof, except where such immediate previous owner or operator meets the criteria as an eligible person who has achieved a liability endpoint pursuant to section 5C.

SECTION 12. Said section 2 of said chapter 21E is hereby further amended by striking out the sentence contained in lines 227 to 229, inclusive, and inserting in place thereof the following sentence:- A fiduciary who takes any action described in subclauses (A) to (E), inclusive, of paragraph (2) of subsection (b) of this definition shall not be deemed an owner or operator solely because said fiduciary took such action.

SECTION 13. The definition of "Owner" or "Operator" in said section 2 of said chapter 21E, as so appearing, is hereby amended by striking out paragraph (c) and inserting in place thereof the following paragraph:-

(c) A secured lender shall not be deemed an owner or operator with respect to the site securing the loan if the applicable following requirements are met:

(1) A secured lender who meets all of the requirements of this paragraph, as applicable, shall be excluded from the definition of owner or operator only with respect to releases and threats of release that first begin to occur before such secured lender acquires ownership or possession of the site or vessel. Nothing in this definition shall relieve a secured lender of any liability for a release or threat of release that first begins to occur at or from a site or vessel during the time that such secured lender has ownership or possession of such site or vessel for any purpose.

(2) Notwithstanding any other provision of this definition, a secured lender shall be deemed an owner or operator of an abandoned site or vessel if such secured lender owned, operated, or held ownership or possession of such site or vessel immediately prior to such abandonment.

(3) No act of the secured lender, or of the secured lender's employees or agents, causes or contributes to a release or threat of release of oil or hazardous materials or causes the release or threat of release to become worse than it otherwise would have been.

(4) Neither the secured lender nor the secured lender's employees or agents compel the borrower to:

(i) undertake an action which causes a release of oil or hazardous material; or (ii) violate any law or regulation regulating the use or handling of oil or hazardous materials.

(5) After acquiring ownership or possession of a site or vessel the secured lender satisfies all of the following conditions:-

(A) the secured lender notifies the department, in compliance with this chapter and regulations promulgated thereto, upon obtaining knowledge of a release or threat of release of oil or hazardous material for which notification is required pursuant to this chapter and regulations promulgated thereto,

(B) the secured lender provides reasonable access to the site or vessel to employees, agents, and contractors of the department for all purposes authorized by this chapter, and to other persons for the purpose of conducting response actions pursuant to this chapter and regulations promulgated thereto, upon obtaining knowledge of a release or threat of release of oil or hazardous material,

(C) the secured lender takes reasonable steps (i) to prevent the exposure of people to oil or hazardous material by fencing or otherwise preventing access to the site or vessel, and (ii) to contain any further release or threat of release of oil or hazardous material from a structure or container, upon obtaining knowledge of a release or threat of release of oil or hazardous material,

(D) if the secured lender undertakes a response action at the site or vessel, the secured lender conducts such response action in compliance with the requirements of this chapter and regulations promulgated thereto,

(E) if there is an imminent hazard to public health, safety, welfare, or the environment, or if there is a condition of substantial release migration from oil or hazardous material at or from the site or vessel, the secured lender shall take response actions necessary to abate such conditions in compliance with this chapter and regulations promulgated thereto, and

(F) the secured lender acts diligently to sell or otherwise to divest itself of ownership or possession of the site or vessel. Whether the secured lender is acting or has acted diligently to sell or otherwise to divest itself of ownership or possession of the site or vessel shall be determined as follows:

(i) during the first 36 months after the secured lender first acquired ownership or possession of the site or vessel, whichever occurs earlier, there shall be a presumption that the secured lender is acting diligently to sell or otherwise to divest itself of ownership or possession of the site or vessel; this presumption may be rebutted by a preponderance of the evidence;

(ii) if the secured lender has not divested itself of ownership or possession of the site or vessel after the expiration of said 36-month period specified in subclause (i), then the burden of proof shall thereafter rest on said secured lender to demonstrate by a preponderance of the evidence that said secured lender is acting diligently to sell or otherwise to divest itself of ownership or possession of the site or vessel;

(iii) in determining whether or not the secured lender is acting diligently to sell or otherwise to divest itself of ownership or possession of the site or vessel, the following factors shall be considered:

(a) the use or uses to which the site or vessel was put or is being put during the period in question,

(b) market conditions,

(c) the extent of contamination of the site or vessel and the effects of such contamination on marketability of the site or vessel,

(d) the applicability of, and compliance by such secured lender with, federal and state requirements relevant to sale or to divestment of property in which such secured lender holds or formerly held a security interest,

(e) legal constraints on sale or divestment of ownership or possession, and

(f) whether commercially reasonable steps necessary to render the site or vessel in a marketable condition have been taken.

(6) If the secured lender has knowledge of a release or threat of release of oil or hazardous material at or from a site or vessel against which it has commenced foreclosure proceedings, the secured lender shall notify:

(A) the department pursuant to this chapter and regulations promulgated thereto, but in no event later than the commencement of the public foreclosure auction; and

(B) prospective bidders at the time and place of the public foreclosure auction.

(7) A secured lender whose property has been the site of a release of oil or hazardous material for which the department has incurred costs for assessment, containment, or removal actions pursuant to sections 3A, 4, 5A, 5B, 8, 9, 10, 11, 12, 13, or 14, in responding to an imminent hazard or a condition of substantial release migration, that occurred after the secured lender first acquired ownership or possession, shall be liable to the commonwealth only to the extent of the value of the property following the department's response actions, less the total amount of costs reasonably paid by said secured lender for carrying out response actions in responding to the imminent hazard or the condition of substantial release migration in compliance with this chapter and regulations promulgated thereto.

SECTION 14. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by striking out, in line 429, the words "(E) of clause (3)" and inserting in place thereof the following words:- subclause (iii) of subparagraph (F) of clause (5).

SECTION 15. The definition of "Owner" or "Operator" in said section 2 of said chapter 21E, as so appearing, is hereby amended by adding the following two paragraphs:-

(e)(1) An eligible tenant after acquiring occupancy, possession or control of a site or portion of a site from or at which there is or has been a release of oil or hazardous material shall not be deemed an operator if all of the following requirements are met on the site or portion of the site occupied, possessed or controlled by the eligible tenant:

(A) no act or failure of duty of the tenant or of its employee or agent causes or contributes to the release, causes the release to become worse than it otherwise would have been, or causes a new exposure to the release;

(B) the tenant notifies the department in compliance with this chapter and regulations promulgated thereto, upon obtaining knowledge of a release or threat of release on or from the site or portion of the site under its occupancy, possession or control;

(C) the tenant provides reasonable access to the site or portion of the site under its occupancy, possession or control to employees, agents, and contractors of the department for all purposes authorized by this chapter, and to other persons for the purpose of conducting response actions pursuant to this chapter and regulations promulgated thereto;

(D) if the tenant uses oil or hazardous material similar to those which have been released, the tenant demonstrates by a preponderance of the evidence that it has not contributed to the release;

(E) the tenant takes reasonable steps (i) to prevent the exposure of people to oil or hazardous material by fencing or otherwise preventing access to the portion of the site under its control, (ii) to contain any further release or threat of release of oil or hazardous material from a structure or container under its control, and (iii) if there is an imminent hazard at or from the site or portion of the site under its control, the tenant controls the potential risk to public health, safety, welfare, or the environment by taking immediate response actions at the site or portion of the site under the control of the tenant; and

(F) any response action voluntarily conducted or required by this section is conducted in compliance with this chapter and regulations promulgated thereto;

(2) Nothing in this section shall relieve a tenant of liability for a release or threat of release of oil or hazardous material which first begins to occur at or from the site or portion of the site occupied, possessed or controlled by such tenant during such tenant's occupancy, possession, or control.

(3) Merely ceasing to occupy, possess or control a site or portion of a site shall not cause an eligible tenant to be liable for a release or threat of release of oil or hazardous material at or from such site or such portion of a site.

(4) An eligible tenant shall not be liable for property damage resulting from a release or threat of release at or from a portion of the site not under its occupancy, possession or control for which it would not otherwise be liable pursuant to this chapter.

(f) A redevelopment authority, redevelopment agency, community development corporation or economic development and industrial corporation shall not be deemed an owner or operator if all of the following requirements are met:

(1) the redevelopment authority, redevelopment agency, community development corporation or economic development and industrial corporation has acquired its portion of the site in accordance with the provisions of chapter 40F, chapter 121B or chapter 121C or any applicable special acts;

(2) no act or failure of duty of the redevelopment authority, redevelopment agency, community development corporation or economic development and industrial corporation or of any employee or agent thereof, caused or contributed to, or exacerbated any release or threat of release of oil or hazardous material at or from the site;

(3) the redevelopment authority, redevelopment agency, community development

corporation or economic development and industrial corporation satisfies all of the following conditions:

(A) notifies the department in compliance with this chapter and regulations promulgated thereto upon obtaining knowledge of a release or threat of release of oil or hazardous material for which notification is required pursuant to this chapter and regulations promulgated pursuant thereto;

(B) provides reasonable access to the site or portion of the site under its control to employees, agents and contractors of the department for all purposes authorized by this chapter, and to other persons for the purpose of conducting response actions pursuant to this chapter and regulations promulgated thereto;

(C) takes reasonable steps (i) to prevent the exposure of people to oil or hazardous material by fencing or otherwise preventing access to the portion of the site under its ownership or possession, and (ii) to contain any further release or threat of release of oil or hazardous material from a structure or container under its ownership or possession;

(D) if there is an imminent hazard at or from the portion of the site under its control, controls the potential risk to public health, safety, welfare, or the environment at or from the site by taking immediate response actions at the portion of the site under its ownership or possession, in compliance with this chapter and regulations promulgated thereto;

(E) conducts any response action undertaken at the site in compliance with this chapter and regulations promulgated thereto; and

(F) acts diligently to sell or otherwise to divest itself of ownership or possession of its portion of the site in accordance with the provisions of chapter 40F, chapter 121B or chapter 121C, or any applicable special acts. Whether the redevelopment authority, redevelopment agency, community development corporation or economic development and industrial corporation is acting or has acted diligently to sell or otherwise to divest itself of ownership or possession of its portion of the site shall be determined by considering the same criteria applicable to secured lenders set forth in subclause (iii) of subparagraph (F) of clause (5) of paragraph (c).

(4) if the redevelopment authority, redevelopment agency, community development corporation or economic development and industrial corporation acquired ownership or possession of a site or portion of a site prior to the effective date of this act, the redevelopment authority, redevelopment agency, community development corporation or economic development and industrial corporation notifies the department of any releases of oil or hazardous material of which it has knowledge in accordance with section 7 and the regulations promulgated thereunder, and shall meet the requirements in clause (3) of this paragraph relative to such releases within six months of being notified by the department of the requirements in this paragraph.

SECTION 16. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by inserting after the definition of "Public vessel" the following definition:-

"Redevelopment authority" or "redevelopment agency", an authority or agency created and operated in accordance with the provisions of chapter 121B and an economic

development authority created and operated in accordance with the provisions of chapter 22 of the acts of 1995.

SECTION 17. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by inserting after the definition of "Release" the following definition:-

"Remedy operation status", a response action that has eliminated a condition of any substantial hazard to public health, safety, welfare or the environment and relies upon active operation and maintenance for the purpose of achieving a permanent solution.

SECTION 18. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by inserting after the definition of "Site" the following definition:-

"Standard of care", the degree of care that a reasonable and diligent waste site cleanup professional licensed pursuant to sections 19 to 19J, inclusive, of chapter 21A shall exercise when rendering a waste site cleanup activity opinion pursuant to said sections 19 to 19J, inclusive.

SECTION 19. Paragraph (j) of section 3A of said chapter 21E, as so appearing, is hereby amended by striking out clause (2) and inserting in place thereof the following two clauses:-

(2) A person who has resolved his liability to the commonwealth in an administrative or judicially approved settlement shall not be liable for claims for contribution, cost recovery or equitable share regarding matters addressed in the settlement to any person (i) to whom the settling party has provided notice of the settlement, or who has otherwise received notice, and (ii) who has had an opportunity to comment on the settlement to the settling parties. Matters addressed in a settlement shall be defined in each settlement. An opportunity to comment shall mean an opportunity for a person to submit written comments to the settling parties during a period of 90 calendar days commencing with such person's receipt of notice or the date of publication of notice. The settling governmental entity may, in its sole discretion, extend the 90-day comment period upon a request made prior to the expiration of such comment period. Notice shall include, but shall not be limited to, notice of how, when and to whom to make comments. Notice means actual notice or notice provided by registered mail, return receipt, to all owners of record in the respective registry of deeds or the appropriate land registration office of the registry district for the preceding 50 years for all property within the site, and all parties who have received notice from the department of environmental protection pursuant to section 4. For all others notice means notice by publication. Notice by publication shall be deemed adequate upon publication of the settlement (i) in the *Environmental Monitor* and (ii) in a newspaper, if any, published in the municipality where the site is located or in a newspaper with general circulation in the town where the site is located, once in each of three successive weeks. If no newspaper is published in such municipality, notice may be published in a newspaper with general circulation where the site is located. A newspaper which by its title page purports to be printed or published in such municipality, and having a circulation therein, shall be sufficient for the purpose of providing notice by publication pursuant to this section. No such settlement shall be effective prior to the closing of the comment period. Such settlement does

not discharge any other person unless its terms so provide, but shall reduce the potential liability of all other liable persons by the amount of the settlement. (3) Pursuant to the limitations set forth in this subsection, the commonwealth may, in its sole discretion, enter into a brownfields covenant not to sue agreement with a current or prospective owner or operator of property that is contaminated by oil or hazardous material.

(a) The commonwealth may enter into such an agreement only where:

(i) the proposed redevelopment or reuse of the property will contribute to the economic or physical revitalization of the community in which it is located, and provides one or more of the following public benefits: (a) provides new, permanent jobs, or (b) results in affordable housing benefits, or (c) provides historic preservation, or (d) creates or revitalizes open space, or (e) will provide some other public benefit to the community as determined by the attorney general; and

(ii) a permanent solution or remedy operation status shall be achieved and maintained for the site that is the subject of the covenant, in accordance with this chapter and regulations promulgated pursuant thereto; or, if the person to whom such covenant is provided is an eligible person as defined in section 2, and such person can demonstrate that it is not feasible to achieve a permanent solution for the site in accordance with paragraph (g) of this section, that a temporary solution is achieved and maintained in accordance with paragraph (f) of this section; and

(iii) a development plan describing the proposed use or reuse of the site and the proposed public benefits is submitted in accordance with the regulations promulgated pursuant to this section.

(b) In entering into such covenants not to sue, the commonwealth shall give first priority to sites located in the 15 cities with the highest poverty rate in the commonwealth; second priority to sites located in the remaining municipalities located within an economically distressed area as defined in section 2 of this chapter; and third priority to sites located in any remaining municipalities in the commonwealth.

(c) A person who has entered into a brownfields covenant not to sue agreement shall not be liable to the commonwealth or to any other person who has received notice of an opportunity to join the covenant not to sue agreement, for claims for contribution, response action costs or for property damage pursuant to this chapter or for property damage under the common law, except for liability arising under a contract; provided, however, that no person shall be relieved of any liability by this provision with respect to any matter or property that is not addressed by said brownfields covenant not to sue agreement.

(d) Nothing in this clause shall relieve a potentially liable person of any liability for a release or threat of release of oil or hazardous material: (i) that first begins to occur after the brownfields covenant not to sue vests; (ii) from which there is a new exposure that results from any action or failure to act pursuant to this chapter during such person's ownership or operation of the site; or (iii) that violates or is inconsistent with an activity and use limitation established pursuant to this chapter and regulations promulgated thereunder.

(e) The attorney general shall, in consultation with the department of environmental

protection and the department of economic development, within one year of the effective date of this act, adopt regulations to carry out the purposes of this subsection.

SECTION 20. Clause (1) of paragraph (p) of said section 3A of said chapter 21E, as so appearing, is hereby amended by striking out subclause (ii) and inserting in place thereof the following subclause:-

(ii) the department has issued an order pursuant to clause (B) of paragraph (1) of subsection (b) of section 10 for a person to carry out response actions or to apply for a permit to carry out response actions or both.

SECTION 21. Section 3B of said chapter 21E, as so appearing, is hereby amended by striking out, in line 12, the words "fees for" and inserting in place thereof the following words:- fees. For.

SECTION 22. Said section 3B of said chapter 21E, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

In instances of severe financial hardship, the commissioner or his designee may grant a timely request to extend the time for making payment. The department may require that persons applying for permits as a result of an order issued pursuant to clause (B) of paragraph (1) of subsection (b) of section 10, or as a result of any other enforcement action by the department or another agency of the commonwealth or its subdivisions, pay double the otherwise applicable fee.

SECTION 23. Section 5 of said chapter 21E, as so appearing, is hereby amended by inserting after the word "of", in line 137, the following words:- oil or.

SECTION 24. Said section 5 of said chapter 21E, as so appearing, is hereby further amended by adding the following paragraph:-

(1) Any governmental body or charitable corporation or trust which holds a conservation restriction, agricultural preservation restriction, watershed preservation restriction or affordable housing restriction pursuant to section 32 of chapter 184 shall not be deemed to be an owner or operator if all of the following requirements are met:

(1) no act or failure of duty of the governmental body or charitable corporation or trust, or of its employee or agent, caused or contributed to the release or threat of release or caused the release or threat of release to become worse than it otherwise would have been;

(2) it did not control activities at the site except to the extent that it implemented and enforced its rights under the restriction;

(3) it is not the owner or operator of any building, structure, equipment, storage container, motor vehicle, rolling stock or aircraft from or at which the release or threat of release occurred;

(4) it notified the department, in compliance with this chapter and regulations promulgated thereto, upon obtaining knowledge of a release or threat of release for which notification is required pursuant to this chapter and regulations promulgated thereto; and

(5) if it undertakes a response action at the site, it conducts such response action in compliance with the requirements of this chapter and regulations promulgated thereto.

SECTION 25. Said chapter 21E is hereby further amended by inserting after section 5B the following two sections:-

Section 5C. (a) An eligible person shall be exempt from liability to the commonwealth or to any other person for contribution, response action costs or property damage pursuant to this chapter or for property damage under the common law, except for liability arising under a contract, for any release of oil or hazardous material at the site or portion of a site owned or operated by said eligible person, as delineated in a waste site cleanup activity opinion, for which a permanent solution or remedy operation status exists and is maintained or has been achieved and maintained in accordance with such opinion, provided that all of the requirements of this section are met. This exemption shall only apply if such opinion meets the standard of care as defined in section 2.

(b) The liability exemption provided by this section shall only apply where:

(1) the eligible person owns or operates a site or portion of a site at or from which there has been a release of oil or hazardous material that has affected only soil, and has not affected groundwater or surface water, and achieves and maintains a permanent solution or remedy operation status for the release on the property owned or operated by such eligible person;

(2) the eligible person owns or operates a site or portion of a site which is the source of a release of oil or hazardous material to groundwater or surface water and achieves and maintains a permanent solution or remedy operation status for the entire site; or

(3) the eligible person who meets the requirements of section 5D shall be eligible for the liability exemption in paragraph (a) of this section if he otherwise satisfies clause (1) of paragraph (b) of this section.

(c) To qualify for the liability exemption provided by this section, an eligible person shall:

(1) comply with the notice requirements of this chapter and regulations promulgated thereto, as applicable;

(2) provide reasonable access to the portion of the site owned or operated by such eligible person to employees, agents, and contractors of the department for all purposes authorized by this chapter and to other persons intending to conduct response actions pursuant to this chapter and regulations promulgated thereto;

(3) respond in a reasonably timely manner to any request made by the department or the attorney general to produce information as required pursuant to this chapter;

(4) ensure that response actions at the site or portion of the site owned or operated by the eligible person are conducted in accordance with this chapter and regulations promulgated thereto;

(5) ensure that response at or from the site or portion of the site owned or operated by the eligible person meet the standards of care as defined in section 2; and

(6) settle response action costs that are incurred by the commonwealth and for which such eligible person is potentially liable pursuant to this chapter. The settlement of such costs shall be negotiated between the commonwealth and such eligible person. The commonwealth

is directed to consider the future economic benefits such as future job gains and the economic revitalization of the community in the negotiation of an appropriate settlement of costs incurred by the commonwealth. The commonwealth shall also consider the ability of the eligible person to pay such response action costs in the negotiation of an appropriate settlement.

(d) An eligible person who is in full compliance with this chapter and the regulations promulgated hereunder and subsequently transfers ownership or operation of the site or portion of the site under his control to another eligible person before achieving a permanent solution or remedy operations status shall, at such time as a subsequent owner or operator achieves a permanent solution or remedy operations status at the site or portion thereof, be exempt from liability as set forth in paragraph (a), provided the eligible person conducts all response actions pursuant to this chapter and regulations promulgated thereto, and otherwise complies with the provisions of paragraphs (b) and (c) during the period of time when such eligible person owns or controls the site or portion of the site.

(e) An eligible person who first owns or operates its portion of a site after a permanent solution or remedy operation status has been achieved and maintained shall be exempt from liability as set forth in paragraph (a); provided, however, that such person satisfies subparagraphs (1) to (3), inclusive, of paragraph (c) and (2) maintains the permanent solution or remedy operation status.

(f) Where a liability exemption pursuant to this section is obtained for a release of oil, the person who owned or operated the site immediately prior to the eligible person shall be liable except that such person may assert the defense pursuant to clause (3) of paragraph (c) or paragraph (h) of section 5, if applicable.

(g) Nothing in this section shall prohibit an eligible person from voluntarily conducting response actions in addition to those required to achieve and to maintain the liability exemption pursuant to this section.

(h) Nothing in this section shall relieve an eligible person of liability for a release or threat of release of oil or hazardous material that first begins to occur at or from the site or portion of the site under his control during such person's ownership or operation.

(i) Nothing in this section shall relieve an eligible person of any liability for a release or threat of release of oil or hazardous material:

(1) that is exacerbated, caused, or contributed to by the acts or failure to act pursuant to this chapter of such person or its agent or employee; or

(2) to which there is a new exposure resulting from any action or failure to act pursuant to this chapter during such person's ownership or operation of the site that violates or is inconsistent with an activity and use limitation.

(j) Nothing in this section shall relieve an eligible person of any liability for any action or failure to act that violates or is inconsistent with an activity and use limitation.

(k) A person asserting that it is an eligible person with respect to a release who owns or operates its portion of a site prior to the date on which the release is reported to the department shall bear the burden of proving by a preponderance of the evidence that it is an eligible person pursuant to this section.

Section 5D. (a) A person who would otherwise be liable for a release of oil or hazardous material solely pursuant to clause (1) of paragraph (a) of section 5 and who did not cause or contribute to the release, shall not be liable to the commonwealth or to any other person for contribution, response action costs for property damage pursuant to this chapter or for property damage under the common law, except for liability under a contract, if such release of oil or hazardous material has migrated in or on groundwater or surface water from a known source where the following requirements are met:

(1) such oil or hazardous material was released from an upgradient or upstream source or sources and has come to be located at the downgradient or downstream property owned or operated by such person;

(2) such person does not own or operate and did not previously own or operate any portion of the site from or at which the source of the release originated;

(3) such person complies with the notice requirements of this chapter and regulations promulgated thereto; and

(4) such person: (i) provides reasonable access to the portion of the site it owns or operates to employees, agents and contractors of the department for all purposes authorized by this chapter and to other persons for the purpose of conducting response actions pursuant to this chapter and regulations promulgated thereto; (ii) takes reasonable steps (a) to prevent the exposure of people to oil or hazardous material by fencing or otherwise preventing access to the portion of the site under its control, and (b) to prevent an imminent hazard at the downgradient or downstream property owned or operated by such person by taking immediate response actions at the portion of the site owned or operated by such person; (iii) does not unreasonably impede or interfere with the performance of response actions or the restoration of natural resources by any person; and (iv) does not exacerbate the release of oil or hazardous material affecting the downgradient or downstream property owned or operated by such person.

(b) With respect to a release of oil or hazardous material that has migrated in or on groundwater or surface water from an unknown source, a person who can demonstrate by a preponderance of the evidence that it otherwise meets all of the criteria in paragraph (a) shall not be liable to the commonwealth or to any other person for contribution, response action costs or property damage pursuant to this chapter or for property damage under the common law, except for liability arising under a contract.

(c) The department shall promulgate regulations in order to define the terms "known source" and "unknown source".

(d) Nothing in this section shall relieve any person of any liability for releases or threats of release of oil or hazardous material:

(1) that are exacerbated, caused, or contributed to by the acts or failure to act pursuant to this chapter of such downgradient or downstream owner or operator, or its agent or employee;

(2) that originate on the downgradient or downstream property owned or operated by such person;

(3) that originate on the downgradient or downstream property owned or operated by such person and commingled with the oil or hazardous material migrating from upgradient or upstream property in groundwater or surface water; or

(4) to which there is a new exposure resulting from an act or failure to act pursuant to this chapter of a downgradient or downstream owner or operator or such person's agent or employee.

(e) Nothing in this section shall affect the department's audit authority, as provided by paragraph (o) of section 3A.

(f) If the commonwealth prevails in an action brought pursuant to this chapter for recovery of costs incurred by the department against a party that has asserted liability protection pursuant to this section, the court may impose sanctions in accordance with paragraph (e) of section 5.

SECTION 26. Section 6 of said chapter 21E, as appearing in the 1996 Official Edition, is hereby amended by adding the following paragraph:-

Any owner or operator of real property at which a permanent solution or remedy operation status has been achieved and maintained and an activity and use limitation has been implemented shall not be liable to the commonwealth or to any other person for contribution, response action costs for property damage pursuant to this chapter or for property damage under the common law, which arise after the term of such owner or operator's ownership or possession, and which arise from acts or a failure to act, pursuant to this chapter, of a subsequent property owner, an operator under a subsequent property owner, or another person, which violate or are inconsistent with the terms of such activity and use limitation, provided that:

(a) during its term of ownership or operation of the property, the former property owner or operator complied with the terms of the activity and use limitation and the provisions of this chapter and regulations promulgated pursuant thereto; and

(b) the former property owner or operator did not cause or contribute to any act or failure to act pursuant to this chapter of the subsequent property owner or operator, or other person, which violated or was inconsistent with the terms of the activity and use limitation.

Notwithstanding any other provisions of this section, an owner or operator of real property at which a permanent solution or remedy operation status has been achieved and maintained and an activity and use limitation has been implemented shall be relieved of liability under this section to any person other than the commonwealth, only if

(i) said owner or operator has never conducted, or been required to conduct, a clean up of hazardous substances pursuant to the federal Resource Conservation and Recovery Act or the federal Comprehensive, Environmental, Response, Compensation and Liability Act; and

(ii) said owner or operator is not subject to an outstanding administrative or judicial enforcement action under this chapter for a release of oil or hazardous materials at the time of the transfer of the subject property, and

(iii) said owner or operator records notice of the restrictions of the use of said proper-

ty pursuant to section 6 of this chapter, and any regulations promulgated hereunder.

SECTION 27. The first paragraph of section 7 of said chapter 21E, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Any owner or operator of a site or vessel, and any person otherwise described in paragraph (a) of section 5, and any fiduciary, city, town, redevelopment authority, redevelopment agency, community development corporation, economic development and industrial corporation or secured lender who holds title to or possession of a site or vessel and any eligible tenant who acquires occupancy or possession of a site or a portion thereof, as soon as he has knowledge of a release or threat of release of oil or hazardous material, shall immediately notify the department thereof.

SECTION 28. Section 8 of said chapter 21E, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

In the event that it has reason to believe that an owner or operator of a site or vessel, a fiduciary, a city or town, a redevelopment authority, a redevelopment agency, a community development corporation, an economic development and industrial corporation, an eligible person or secured lender that has title to or possession of a site or vessel, an eligible tenant that acquires occupancy or possession of a site or a portion thereof, or a person asserting downgradient property status pursuant to section 5D has made fraudulent representations to the department or has destroyed or concealed evidence relating to a release or threat of release or to the assessment, containment, or removal of a release or threat of release, the department may seize any records, equipment, property, or other evidence it deems necessary. During the course of any assessment, containment, and removal actions, the department may restrict and deny entry to the site or vessel and proximate property to protect the public health, safety, welfare and the environment and to provide for the efficient, expeditious and safe conduct of such actions; such restriction and denial shall not preclude access by an owner or operator of such site or vessel, fiduciary, city or town, redevelopment authority, redevelopment agency, community development corporation, economic development and industrial corporation, eligible person or secured lender that has title to or possession of such site or vessel, eligible tenant that acquires occupancy or possession of a site or a portion thereof, or person asserting downgradient property status pursuant to section 5D that acquires occupancy or possession of a site or a portion thereof; provided, however, that such owner, operator, fiduciary, city or town, redevelopment authority, redevelopment agency, community development corporation, economic development and industrial corporation, eligible person, secured lender, eligible tenant or person asserting downgradient property status pursuant to section 5D complies with all safety and operational protocols and requirements imposed by and to the satisfaction of the department; and provided, further, that such owner, operator, city or town, fiduciary, redevelopment authority, redevelopment agency, community development corporation, economic development and industrial corporation, eligible person, eligible tenant, secured lender or person asserting downgradient property status pursuant to said section 5D does not interfere with the efficient, expeditious and safe conduct of the department's assessment, containment and removal actions.

SECTION 29. Section 13 of said chapter 21E, as so appearing, is hereby amended by inserting after the word "fiduciary", in lines 6 and 7 and in line 62, in each instance, the following words:- , city or town, redevelopment authority, redevelopment agency, community development corporation, economic development and industrial corporation.

SECTION 30. Said chapter 21E is hereby further amended by adding the following section:-

Section 19. (a) There is hereby created an office of brownfields revitalization, under the direct supervision and control of the governor. Said office of brownfields revitalization shall, in consultation with the departments of housing and community development, environmental protection, economic development, public health, the Massachusetts Development Finance Agency, and other entities as appropriate, coordinate development and implementation of a Massachusetts brownfields strategy for cleanup and redevelopment of contaminated sites in economically distressed areas of the commonwealth. Such strategy shall: (1) promote the redevelopment and reuse of sites that are located in economically distressed areas and are contaminated by oil or hazardous material, and (2) to the maximum extent feasible, reap the combined benefits of environmental protection and economic redevelopment for the commonwealth.

(b) In implementing such brownfields strategy, the office of brownfields revitalization shall:

(1) with respect to each brownfields covenant not to sue agreement implemented under section 3A consult with the attorney general;

(2) provide assistance to the advisory group established in section 8G of chapter 212 of the acts of 1975, as amended, in the development of advisory recommendations for funding projects;

(3) in conjunction with the departments of economic development, housing and community development, and environmental protection, provide technical assistance to municipalities, redevelopment authorities, redevelopment agencies, community development corporations, economic development and industrial corporations and other persons interested in redeveloping brownfields;

(4) serve as liaison with local, state and federal agencies on development issues affecting response actions performed pursuant to this chapter and regulations promulgated hereunder; and

(5) ensure that the commonwealth realizes all possible benefits of federal and private assistance for brownfields redevelopment efforts.

(c) The governor is hereby authorized to appoint a director of the office of brownfields revitalization established by this section, who shall serve as brownfields ombudsman. The governor shall choose from among three candidates nominated by the brownfields advisory group, established by section 8G of chapter 212 of the acts of 1975, as amended. Candidates for the position of ombudsman shall have extensive experience or expertise in two or more of the following:

(i) environmental discovery, containment and remediation;

- (ii) economic development in urban areas of the commonwealth;
- (iii) commercial or industrial property development;
- (iv) property or environmental law.

(d) Such office is hereby authorized to employ three staff, one of whom shall be a waste site cleanup professional licensed by the commonwealth pursuant to sections 19 to 19J, inclusive, of chapter 21A, one of whom shall be a specialist in urban redevelopment with particular experience in bringing together community and development interests to implement specific projects, and one of whom shall provide administrative support to such office.

SECTION 31. Subdivision 1 of section 3C of chapter 23A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following clause:-

(h) The EACC shall annually submit on March 1 to the attorney general, the department of environmental protection, and the office of brownfields revitalization established by section 19 of chapter 21E, a list of areas or municipalities that qualify as economically distressed areas as defined in section 2 of said chapter 21E.

SECTION 32. Said chapter 23A is hereby further amended by adding the following two sections:-

Section 60. (a) For the purposes of this section and section 61 the following terms shall, unless the context clearly requires otherwise, have the following meaning:

"Agency", the Massachusetts office of business development, or its successor, or its designated agent.

"Borrower", any business or governmental subdivision of the commonwealth that receives a loan with respect to which a reserve is created in accordance with this section.

"Business", the carrying on of any business activity in the commonwealth for profit, or not for profit as specified under chapter 180, whether as a corporation, partnership, limited liability company, trust, sole proprietorship, or otherwise.

"Default", a failure of a borrower to meet the obligations of a loan agreement as a result of the discovery of unanticipated environmental response costs, provided that a default shall not exist where the agency determines that there are program resources available for a project that are adequate to cover said unanticipated environmental costs and that a project would continue to be economically viable with the expenditure of such resources.

"Environmental contamination", oil or hazardous material, as defined in section 2 of chapter 21E that is released on one or more properties located within the commonwealth.

"Environmental response action", an action to assess, contain or remove, as those terms are defined in section 2 of chapter 21E, oil or hazardous material, in compliance with the requirements of said chapter 21E and the regulations promulgated pursuant thereto.

"Financial institution", any bank, as defined in section 1 of chapter 167 or any national banking association, federal savings and loan association or federal savings bank or any other financial institution authorized to make loans in the commonwealth and approved by the agency for the purposes of this program.

"Fund", Redevelopment Access to Capital Fund, established pursuant to subsection

(i) and any earnings derived therefrom, held by the agency or its agent for the implementation and administration of the program.

"Loan", without limitation, a conventional loan, a sale and lease back, a financial lease, a conditional sale or any other arrangement that is in the nature of a loan and with respect to which a reserve is created in accordance with this section.

"Participating financial institution", any financial institution participating in the program established by this section.

"Program", the redevelopment access to capital program.

"Site", a place or area where oil or hazardous material has been released, as further defined in section 2 of chapter 21E.

"Unanticipated environmental costs", new environmental costs that were not known or anticipated at the time of originating a loan to a borrower pursuant to this section, including but not limited to environmental response action costs or costs that result from a change in state or federal rules or regulations.

(b) A participating financial institution may originate a loan to a borrower pursuant to the program to be used within the commonwealth exclusively for environmental response actions necessary for the redevelopment of one or more properties for business purposes. Prior to the origination of such loan the agency shall determine that the loan to the borrower is not otherwise available on reasonable terms from private sources or other state, federal, or local programs. At the time of making such loan to a borrower, the participating financial institution shall place a specified amount into the fund in accordance with the agreement described in subsection (k). The participating financial institution may obtain all or a portion of the specified amount from its own funds, or as payment from the borrower, or may advance the specified amount to the borrower as part of the loan.

(c) At the time of making such loan to a borrower, the participating financial institution shall obtain from said borrower an amount equal to the amount specified by the agency in accordance with the agreement described in subsection (k) and shall place such specified amount into said fund. The participating financial institution may obtain all or a portion of the specified amount as payment from the borrower or may advance the specified amount to the borrower as part of the loan.

(d) After such loan to a borrower has been made, the participating financial institution shall certify to the agency, in such fashion and with such supporting information as the agency shall prescribe, that it has made such loan and has placed the specified amount required pursuant to subsection (b) and the equal specified amount required of the borrower pursuant to subsection (c) into said fund.

(e) The agency shall, after a certification is provided pursuant to paragraph (d), transfer to the fund an amount equal to the total of the specified amounts of the participating financial institution and the borrower or such additional amount, as determined by the agency.

(f) The agency may enter into contracts to insure borrowers against unanticipated environmental costs and defaults. Proceeds of such insurance may be used to pay for such

unanticipated environmental costs or to pay for loan losses pursuant to subsection (h) and in accordance with the agreement described in subsection (k). The agency may use monies from the fund to purchase such insurance policies and pay deductibles for such insurance policies. The agency may require the participating financial institution to require a borrower to pay a portion of the unanticipated environmental costs, the required amount to be determined pursuant to the agreement described in said subsection (k).

(g) Upon obtaining knowledge that the borrower has incurred or will incur unanticipated environmental costs that will result in a cost overrun, the borrower shall notify the participating financial institution and the participating financial institution shall notify the agency of the anticipated amount and the reasons for the cost overrun.

(h) In the event unanticipated environmental response costs arise, the financial institution, subject to the agreement executed pursuant to subsection (f), may in its discretion and with the concurrence of the agency, draw upon the fund or access available insurance benefits, minus applicable deductions, to pay such costs. In the event the participating financial institution determines that there is a default on a loan made pursuant to this program, the financial institution, with the concurrence of the agency, may draw upon the fund or insurance to satisfy the loan. No payments from insurance or from the fund for unanticipated environmental response costs or for default loan losses shall be paid until all funds originally allocated to remediation have been spent. The agency may recover funds disbursed pursuant to this program through subrogation and may place a lien on the land remediated with fund assets, but may not commence or cause another to commence a foreclosure procedure.

(i) There is hereby established within the agency the Redevelopment Access to Capital Fund to which shall be credited monies contributed by the commonwealth, the borrower, and participating financial institutions pursuant to this section including any appropriations or other monies authorized by the general court and specifically designated to be credited to said fund and any grants, gifts or any other monies directed to the fund. All amounts placed into said fund shall be deposited by the agency into an account at an institution designated by the agency. All earnings or interest on said fund account shall be added to the principal of said fund account and held as additional funds for the program, except as provided in subsection (j).

(j) The agency may require at any time and from time to time that in accordance with the provisions of paragraphs (a) and (c) of section 61, a portion of the accrued earnings or interest remaining in said fund account be paid to the agency to be used to defray the costs of administering the program.

(k) Any financial institution desiring to become a participating financial institution shall execute an agreement in such form as the agency may prescribe, which agreement shall contain the terms and provisions set forth in subsections (a) to (j), inclusive, and such other terms and provisions as the agency may deem necessary or appropriate.

Section 61. The Massachusetts Office of Business Development or its successor, hereinafter referred to as MOBD, is hereby authorized to do the following:

(a) Enter into a contract with the Massachusetts Business Development Corporation, hereinafter referred to as MBDC, established under the provisions of chapter 671 of the acts of 1953, to act as the agent of MOBD with respect to the administration of the program. Said contract: (1) shall be for a period of two years and shall be renewed for additional two-year periods subject to the requirements of paragraph (b); and (2) shall provide for compensation and reimbursement of the agent on terms that the MOBD may deem appropriate for the administration of said program for any expenses incurred by the MBDC in connection with its services as agent and necessary for the implementation of the program.

(b) Conduct an annual review and assessment of the performance of the MBDC in its capacity as agent for MOBD to determine whether the contract referenced in paragraph (a) should be renewed for an additional two-year period. Said review shall be based on whether the MBDC has satisfactorily met the terms and conditions of the contract.

Upon an initial determination by MOBD that the performance of MBDC is unsatisfactory, the MBDC shall be given notice of such determination and an opportunity to take corrective action. If, upon a final review of the MBDC's performance MOBD continues to conclude that the performance of the MBDC is unsatisfactory, it shall, 90 days prior to terminating the contract with MBDC, submit to the joint committee on commerce and labor its recommendation to terminate such contract with MBDC and transfer the contract to another agent.

(c) Make and publish rules and regulations respecting the implementation of the redevelopment access to capital program and any other rules and regulations necessary to fulfill the purposes of this section.

(d) Do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this section.

SECTION 33. Chapter 59 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after section 59 the following section:-

Section 59A. Municipalities may establish, relative to sites or portions of sites from or at which there has been a release of oil or hazardous material, an agreement between the city or town and any eligible person, as defined in section 2 of chapter 21E, regarding the abatement of outstanding interest, penalties, and payment of real estate tax obligations on said sites or portions of sites; provided, however, that said sites or portions of sites are zoned for commercial or industrial uses by the municipality in which said sites or portions of sites exist. Such agreement, for the purpose of continuing environmental cleanup on such sites and redevelopment in such communities, shall include, but shall not be limited to, the amount outstanding, the per cent of interest to accrue if determined applicable by the parties, the description of quantifiable monthly payments, the inception date of such payments, the date of the final payment, late penalties, and any other contractual obligations arranged between the parties. The terms of repayment shall be set at the discretion of the municipality and shall be included in the agreement between the parties. Copies of this agreement shall be signed by the chair of the city council or board of selectmen and the owner of the property in question, notarized, attested to by the town or city clerk, and provided to the Massachusetts

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department of environmental protection, the federal environmental protection agency, the commissioner, the city council or board of selectmen, and the owners of the property in question. This section shall take effect in any city or town only upon its acceptance by such city or town.

SECTION 34. Section 6 of chapter 62 of the General Laws, as amended by section 63 of chapter 43 of the acts of 1997, is hereby further amended by adding the following subsection:-

(j)(1) A taxpayer who commences and diligently pursues an environmental response action within 3 years of the effective date of this act and who achieves and maintains a permanent solution or remedy operation status in compliance with chapter 21E and the regulations promulgated thereunder which includes an activity and use limitation shall, at the time such permanent solution or remedy operation status is achieved, be allowed a base credit of 25 per cent of the net response and removal costs incurred between August 1, 1998 and January 1, 2005 for any property it owns or leases for business purposes and which is located within an economically distressed area as defined in section 2 of said chapter 21E; provided, however, that said costs shall be no less than 15 per cent of the assessed value of the property prior to remediation; provided, further, that the site was reported to the department of environmental protection; and provided, further, that a credit of 50 per cent of such costs shall be allowed for any such taxpayer who achieves and maintains a permanent solution or remedy operation status in compliance with said chapter 21E and the Massachusetts Contingency Plan promulgated pursuant to said chapter which does not include an activity and use limitation. Only a taxpayer that is an eligible person, as defined by said section 2 of said chapter 21E, and is not subject to any enforcement action under said chapter 21E shall be allowed a credit.

Any credit allowed under this subsection may be taken only after a response action outcome statement or remedy operation status submittal has been filed with the Massachusetts department of environmental protection as set forth in the Massachusetts Contingency Plan.

(2) If the taxpayer ceases to maintain the remedy operation status or the permanent solution in violation of the Massachusetts Contingency Plan prior to the sale of the property or the termination of the lease, the difference between the credit taken and the credit allowed for maintaining the remedy shall be added back as additional taxes due in the year the taxpayer fails to maintain the remedy operation status or permanent solution. The amount of the credit allowed for maintaining the remedy shall be determined by multiplying the original credit by the ratio of the number of months the remedy was adequately maintained over the number of months of useful life of the property. For the purposes of this paragraph, the useful life of the property shall be the same as that used by corporations for depreciation purposes when computing federal income tax liability; provided, however, that in the case of real property that is not depreciable, the useful life shall be deemed to be 12 months.

(3) Notwithstanding the provisions of this subsection, the maximum amount of credits otherwise allowable in any taxable year to a taxpayer shall not exceed 50 per cent of

its excise imposed by this chapter. Any taxpayer entitled to a credit under this subsection for any taxable year may carry over and apply to its tax liability for any subsequent taxable year, not to exceed 5 taxable years, the portion of those credits, as reduced from year to year, which were not allowed under this subparagraph; provided, however, that in no event shall the taxpayer apply the credit in any taxable year in which it has ceased to maintain the remedy operation status or the permanent solution for which the credit was granted.

(4) For the purposes of this section, net response and removal costs shall be expenses paid by the taxpayer for the purpose of achieving a permanent solution or remedy operation status in compliance with chapter 21E; provided, however, that no credit shall be allowed under this section if said taxpayer has received financial assistance from the Redevelopment Access to Capital program established pursuant to section 60 of chapter 23A or from the Brownfields Redevelopment Fund, established pursuant to section 8G of chapter 212 of the acts of 1975.

SECTION 35. Chapter 63 of the General Laws is hereby amended by inserting after section 38P the following section:-

Section 38Q. (a) A domestic or foreign corporation or limited liability corporation which commences and diligently pursues an environmental response action within 3 years of the effective date of this act and which achieves and maintains a permanent solution or remedy operation status in compliance with chapter 21E and the regulations promulgated thereunder which includes an activity and use limitation shall, at the time such permanent solution or remedy operation status is achieved, be allowed a base credit of 25 per cent of the net response and removal costs incurred between August 1, 1998 and January 1, 2005 for any property it owns or leases for business purposes and which is located within an economically distressed area, as defined in section 2 of said chapter 21E; provided, however, that said costs shall be no less than 15 per cent of the assessed value of the property prior to remediation; provided, further, that the site was reported to the department of environmental protection; and provided, further, that a credit of 50 per cent of such costs shall be allowed for any such corporation which achieves and maintains a permanent solution or remedy operation status in compliance with said chapter 21E and the Massachusetts Contingency Plan promulgated pursuant to said chapter, which does not include an activity and use limitation. Only a domestic or foreign corporation or limited liability corporation that is an eligible person, as defined in said section 2 of said chapter 21E, and is not subject to any enforcement action under said chapter 21E shall be allowed a credit.

Any credit allowed under this section may be taken only after a response action outcome statement or remedy operation status submittal has been filed with the Massachusetts department of environmental protection as set forth in said Massachusetts Contingency Plan.

(b) If the corporation ceases to maintain the remedy operation status or the permanent solution in violation of said Massachusetts Contingency Plan prior to the sale of the property or the termination of the lease, the difference between the credit taken and the credit allowed for maintaining the remedy shall be added back as additional taxes due in the year the corp-

oration fails to maintain the remedy operation status or permanent solution. The amount of the credit allowed for maintaining the remedy shall be determined by multiplying the original credit by the ratio of the number of months the remedy was adequately maintained over the number of months of useful life of the property. For the purposes of this subsection, the useful life of the property shall be the same as that used by corporations for depreciation purposes when computing federal income tax liability; provided, however, that in the case of real property that is not depreciable, the useful life shall be deemed to be 12 months.

(c) The credit allowed by this section shall be subject to the provisions of section 32C; provided, however, that the time period for carry over of the tax credit shall be as outlined in this section.

(d) For the purposes of this section, net response and removal costs shall be expenses paid by the taxpayer for the purpose of achieving a permanent solution or remedy operation status in compliance with chapter 21E; provided, however, that no credit shall be allowed under this section if said taxpayer has received financial assistance from the Redevelopment Access to Capital program established pursuant to section 60 of chapter 23A or from the Brownfields Redevelopment Fund, established pursuant to section 8G of chapter 212 of the acts of 1975.

(e) The credit allowed under this section shall not reduce the excise payable by said corporation to less than the amount due pursuant to subsection (b) of section 32 or subsection (b) of section 39 or any other applicable section.

(f) Notwithstanding the provisions of any general or special law to the contrary, any corporation entitled to a credit under this subsection for any taxable year may carry over and apply to its tax liability for any subsequent taxable year, not to exceed 5 taxable years, the portion of those credits, as reduced from year to year, which were not allowed under this subparagraph; provided, however, that in no event shall the taxpayer apply the credit in any taxable year in which it has ceased to maintain the remedy operation status or the permanent solution for which the credit was granted.

SECTION 36. Section 2 of chapter 167F of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following paragraph:-

To participate in the redevelopment access to capital program created under section 60 of chapter 23A and to make the loans and create the reserve and take any and all other actions as may be necessary or appropriate for participating in such program.

SECTION 37. Chapter 212 of the acts of 1975 is hereby amended by inserting after section 8F the following section:-

Section 8G. (a) There is hereby created and placed within the Massachusetts government land bank, referred to in this section as the bank, the Brownfields Redevelopment Fund, referred to in this section as the Fund. The bank is hereby authorized and directed to establish said Fund, to which shall be credited:

(1) any appropriations or other monies authorized by the general court and specifically designated to be credited to the Fund;

(2) fees authorized by subsection (h);

(3) grants, gifts or any other monies directed to the Fund; and

(4) any income derived from an investment of amounts credited to the Fund.

(b) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Economically distressed area", an area or municipality that meets the definition of an economically distressed area contained in section 2 of chapter 21E of the General Laws.

"Environmental site assessment", activity undertaken in compliance with the applicable laws to determine (i) the existence, source, nature and extent of a release or threat of release of oil or hazardous materials; or (ii) the extent of danger to the public health, safety, welfare and the environment.

"Environmental cleanup action", activity, including but not limited to environmental site assessments undertaken to contain or remove from land or structures, oil or hazardous material as defined in chapter 21E of the General Laws and regulations promulgated pursuant thereto, in compliance with all applicable laws.

"Loan", a loan or credit enhancement, including, but not limited to a loan guarantee, a letter of credit, or insurance.

"Project site", any vacant, abandoned or underutilized industrial or commercial property located within an economically distressed area where real or perceived environmental contamination and liability is an obstacle to the redevelopment or improvement of said property.

"Priority project", any project eligible for funding under this section as to which the municipality in which the site of such project is located, has made available substantial funds, in the form of grants, loans, or abated property taxes for said site, in furtherance of the purposes of this section and as to which the bank has designated said project as a priority project.

"Site", a place or area where oil or hazardous material has been released, as further defined in section 2 of chapter 21E of the General Laws.

(c) The bank shall hold the Fund in an account or accounts segregated from other bank funds and accounts, and shall utilize, invest or reinvest the proceeds of the Fund, and income derived therefrom, for the following general purposes:

(1) to encourage economic development in economically distressed areas of the commonwealth by providing loans and grants to finance environmental site assessments and environmental cleanup actions;

(2) to defray costs incurred in the administration of the Fund, as provided in subsections (g) and (h) and in the Fund guidelines; and

(3) to purchase with funds not immediately required for use pursuant to clauses (1) and (2), such securities as may be lawful investments for fiduciaries in the commonwealth.

(d) (A) The bank may make and administer grants and loans to finance environmental site assessments and environmental cleanup actions provided that:

(1) the project is located at a project site within an economically distressed area as defined in section 2 of chapter 21E of the General Laws;

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(2) 30 per cent of all funds administered provide grants and loans to finance environmental site assessments;

(3) any applicant shall transfer the results of the environmental assessment to the regional office of the department of environmental protection, if the applicant does not proceed with development of the project for which the project site was assessed with loan monies from the Fund;

(4) no single project, other than a priority project, shall receive a grant or loan to conduct environmental cleanup actions shall exceed \$500,000 of the assets of the Fund;

(5) no single project, other than a priority project, shall receive a grant or loan to conduct environmental site assessments which shall exceed \$50,000 of the assets of the Fund;

(6) no single priority project shall represent a commitment of more than \$2,000,000 of the assets of the Fund;

(7) no loan made hereunder shall be utilized to finance all of the costs required to complete the response action at a project site, the required match to be set forth in the Fund guidelines, except that the required match may be waived in whole or in part by the bank;

(8) no grant shall be awarded unless and until the applicant for said grant contributes an amount equal to 20 per cent of the grant for which said applicant has applied;

(9) no loan or grant shall be made for any environmental site assessment or environmental cleanup action eligible for funding under chapter 21J of the General Laws; and

(10) security for loans made hereunder may be subordinate to private or other financing provided for the site acquisition, cleanup or development of the project site;

(11) grants shall be provided only to a city or town, redevelopment authority, redevelopment agency, economic development and industrial corporation, community development corporation or an economic development authority.

(e) To be eligible for financial assistance from the Fund, in addition to the requirements in subsection (d), the applicant and project shall meet the following requirements and the applicant shall submit to the brownfields advisory group and the bank, for the bank's final approval, a completed application providing all information required herein and by the Fund guidelines, including:

(1) the proposed redevelopment project will result in a significant economic impact in terms of the number of jobs to be created or will contribute to the economic or physical revitalization of the economically distressed area in which the project site is located and a significant level of community benefits shall be associated with the project;

(2) if the applicant is requesting financing for environmental cleanup action costs, assistance from the Fund shall be necessary to make the proposed reuse of the project site financially feasible;

(3) the applicant shall certify that (i) he would be liable solely pursuant to clause (1) of paragraph (a) of section 5 of chapter 21E of the General Laws; (ii) he did not cause or contribute to the release of oil or hazardous material at the site; (iii) he did not own or operate the site at the time of the release; (iv) that he does not have a familial relationship or

any direct or indirect business relationship, other than that by which the applicant's interest in such property is to be conveyed or financed, with another party that is potentially liable under said chapter 21E with regard to the project site; and (v) except that provision (iv) may be waived with the approval of the board of directors of the bank after full disclosure by the applicant of the familial or business relationship with a potentially responsible party; and

(4) the applicant is not subject to any outstanding administrative or judicial environmental enforcement action unless the applicant has entered into an agreement with the department of environmental protection or the attorney general to resolve said enforcement action with respect to the property or properties under consideration for assistance from the Fund and with respect to any other properties located within the commonwealth for which the applicant is liable pursuant to chapter 21E of the General Laws.

(f) In evaluating an application for financing from the Fund, the brownfields advisory group, established in subsection (l), and the bank shall review each applicant's redevelopment project and the brownfields advisory group shall make advisory recommendations to the bank. The bank shall take into consideration the following factors:

(1) the level of unemployment and poverty in the economically distressed area and in the census tract, if any, within the economically distressed area in which the project site is located;

(2) the likelihood that the proposed response action will be adequate to cleanup the property in accordance with the requirements of all applicable laws;

(3) the presence of community benefits associated with the project, including, without limitation, the creation or revitalization of open space;

(4) the proximity of the property to existing transportation and utility infrastructure appropriate to support the proposed reuse of the project site;

(5) whether the project site is located in an area designated as a Federal Empowerment Zone or Enterprise Community pursuant to chapter 120 of title 42 subsection 11501 et seq. of the United States code; and

(6) whether the municipality in which the site of such project is located has made available substantial funds, in the form of grants, loans, or abated property taxes for said site, in furtherance of the purposes of this section.

(g) The bank shall not be liable under chapter 21E of the General Laws for any claim, loss, cost, damage or injury of any nature whatsoever arising in connection with its administration of the Fund and the environmental condition of the eligible property unless such loss, cost, injury or damage is caused by the gross negligence or willful misconduct of the bank, its officers, directors, employees, or agents and their actions cause or contribute to the contamination of the property or to exposure to the contaminants. Neither the provision of a loan or grant nor the failure to provide a loan or grant to any applicant shall be considered a basis of liability for the bank.

(h) The bank may charge fees for defraying the ordinary and necessary expenses of administration and operation associated with the Fund. All fees received hereunder shall be deposited into the Fund.

(i) Except as otherwise provided in this act, the bank shall have full power to manage its loans, grants and business affairs in connection with the Fund.

(j) Prior to approving any loans or grants hereunder, the bank shall, with the advice of the brownfields advisory group, promulgate regulations which shall provide the definitions and procedures required hereunder and set forth the terms, procedures and standards which the bank shall employ to process applications, make lending decisions, safeguard the Fund and accomplish the purposes of the Fund.

(k) On March 15, 1999 and each year thereafter, the bank shall file in writing, a report to the governor, the attorney general, the commissioner of the department of environmental protection, and the clerks of the house of representatives and the senate, who shall forward the same to the president of the senate, the speaker of the house of representatives, and the chairmen of the house and senate committees on ways and means which shall include financial statements related to the effectiveness of the Fund based on the following criteria, as applicable:

(1) the number of projects assisted through the Fund, with a specification of the amount of loan or grant awarded to each;

(2) the manner in which these projects contribute to the economic and physical revitalization of the areas in which the projects are located, and a description of steps taken by the bank to make the application process efficient and manageable; and

(3) such other information that would provide a fair evaluation of the program.

(l) There shall be established within the bank a Brownfields advisory group. The Brownfields advisory group shall be comprised of the following 13 members who shall serve for two year terms: the director of the department of economic development or his designee, the commissioner of the department of environmental protection or his designee, and the attorney general or his designee. In addition, the speaker of the house of representatives shall appoint the following five Brownfields advisory group members: one hazardous waste site cleanup professional as defined in section 19 of chapter 21A of the General Laws, two representatives of community development corporations, one representative from a municipality, and one representative from the lending community. The president of the senate shall appoint the following five Brownfields advisory group members: one member of a community based organization concerned with Brownfield redevelopment, one representative from the land use and development community, one member from an environmental advocacy organization, one representative from a municipality, and one member of the land bank board of directors. The chair of the Brownfields advisory group shall be elected by members of said advisory group. For action to be taken by the advisory group, a majority of members shall be present. The director of the office of Brownfields revitalization shall serve in an advisory capacity to the Brownfields advisory group.

(m) The bank shall give a priority to those project sites in economically distressed areas, as defined in paragraph (b), that are considered by the ombudsman and the department of economic development to be of substantial economic benefit to the community and which will result in the creation or retention of jobs for that community.

(n) The Brownfields advisory group shall advise the bank in establishing guidelines pursuant to subsection (j) of this act. The Brownfields advisory group shall convene on a monthly basis in order to review actions taken by the bank with respect to the fund and to make any advisory recommendations with respect thereto and further, to assist in producing the report required by subsection (k) of this act.

(o) The Brownfields advisory group shall nominate a total of three candidates for the position of director of the office of Brownfields revitalization, who shall serve as Brownfields ombudsman as defined in section 19 of chapter 21E of the General Laws. The governor may appoint one of the three nominated candidates, or may select a candidate of his choice, to serve as director of the office of Brownfields revitalization.

SECTION 38. Within one year after the effective date of this act, the commissioner of the department of environmental protection, the director of the Massachusetts Development Finance Agency, and the commissioner of the department of revenue and the attorney general, shall adopt regulations to carry out the purposes of this act. All rules and regulations promulgated hereunder shall be filed with the joint committee on natural resources and agriculture 60 days prior to their effective date and any emergency rules and regulations promulgated hereunder shall be filed with said committee 14 days prior to their effective date.

SECTION 39. The department of environmental protection shall develop standards to ensure that activity and use limitations are prepared, recorded or registered in the same manner and with the same professional standards as other similar real estate instruments.

SECTION 40. The department of environmental protection shall, in consultation with the office of the attorney general, and the department of economic development, within 18 months of the effective date of this act, conduct a study of the results and financial requirements of this act and file the results of such study with the clerks of the house of representatives and the senate and the joint committee on natural resources and agriculture and the house and senate committees on ways and means. Based upon an analysis of said study and taking into consideration the constraints of the five year capital spending plan, the governor is hereby directed to file with the general court legislation seeking authorization to issue bonds in an amount sufficient to successfully continue the programs and initiatives established by this act.

SECTION 41. The joint committee on natural resources is hereby authorized to conduct an investigation and study of a Brownfields Trust Fund. Said committee shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry such recommendations into effect, by filing the same with the clerk of the house of representatives.

Said study shall include an analysis of the feasibility of said Brownfields Trust Fund, the intent of which is to create a vehicle by which a potentially responsible party pursuant to chapter 21E of the General Laws, may make contributions into said Fund to provide such party with protection from claims by the commonwealth and third parties from future response actions costs, property damage and contribution claims.

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SECTION 42. A study shall be conducted to promote the examination, sale and cleanup of potentially contaminated property and to promote the economic development of stagnant sites. The attorney general shall, in consultation with the department of environmental protection, the office of brownfields revitalization and the department of economic development, collaborate to study incentives to encourage landowners of potentially contaminated properties to permit potential purchasers access to their property for the purposes of making environmental site assessments and subsurface investigations to determine whether contamination, if any, exists and, if so, to determine the extent of the contamination. Incentives examined shall include, but not be limited to issues relating to liability of the landowner and the potential purchaser arising from actual or constructive knowledge attained through such investigation.

The attorney general shall submit the results of the study and its recommendations to the clerks of the senate and house of representatives on or before December 1, 1998.

SECTION 43. The department of environmental protection shall perform a targeted audit on all sites at which an activity and use limitation has been implemented in order to ensure that response actions not overseen or conducted by the department are performed in compliance with chapter 21E and regulations promulgated thereunder. In the event the department determines that a targeted site is not in compliance with chapter 21E, it shall take any and all action it deems appropriate to enforce the provisions of said chapter.

SECTION 44. The provisions of sections 34 and 35 of this act shall apply to tax years commencing on or after January 1, 1999.

Approved August 5, 1998.

Chapter 207. AN ACT RELATIVE TO THE USE OF THE TITLE PSYCHOLOGIST IN EMPLOYMENT.

Be it enacted, etc., as follows:

Section 123 of chapter 112 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out clauses (a), (b) and (c) and inserting in place thereof the following two clauses:-

(a) persons eligible for licensure under section 119 who provide consultative services for a fee no more than one day a month; or

(b) students of psychology, psychological interns or persons preparing for the practice of psychology under qualified supervision in a recognized training institution or facility; provided, however, that they are designated by such titles as "psychological intern", "psychological trainee" or other title clearly indicating such training status.

Approved August 5, 1998.

Chapter 208. AN ACT RELATIVE TO A CERTAIN ADVISORY COMMITTEE OF THE DEPARTMENT OF MENTAL HEALTH.

Be it enacted, etc., as follows:

Chapter 19 of the General Laws is hereby amended by inserting after section 11 the following section:-

Section 11A. Nothing in section 7 of chapter 268A shall prevent a person who has a financial interest, directly or indirectly, in a contract made by the department of mental health from serving as a member of the department's human rights advisory committee. Members of such committee shall disclose their financial interest, if any, in a department contract by notifying in writing the commissioner and the state ethics commission.

Approved August 5, 1998.

Chapter 209. AN ACT DESIGNATING A CERTAIN BOATHOUSE IN THE CITY OF WORCESTER AS THE ALLAN FEARN BOATHOUSE AT REGATTA POINT.

Be it enacted, etc., as follows:

The boathouse at Regatta point on Lake Quinsigamond in the city of Worcester shall be designated and known as the Allan Fearn boathouse at Regatta point, in honor of Allan Fearn, the director of the Regatta point community sailing program. A suitable marker bearing said designation shall be attached thereto by the department of environmental management in compliance with the standards of said department.

Approved August 5, 1998.

Chapter 210. AN ACT EXEMPTING THE POSITION OF CHIEF OF POLICE IN THE TOWN OF ACTON FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. Chapter 493 of the acts of 1938 is hereby repealed.

SECTION 2. This act shall take effect upon its passage.

Approved August 5, 1998.

Chapter 211. AN ACT AUTHORIZING THE TOWN OF PLYMOUTH TO ESTABLISH A SPECIAL RESERVE FUND.

Be it enacted, etc., as follows:

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SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Plymouth is hereby authorized to establish a special reserve fund for the purpose of offsetting any adverse effects on revenue resulting from the deregulating of the electric utility industry pursuant to chapter 164 of the acts of 1997.

SECTION 2. Said town may in any fiscal year appropriate into the fund any sum deemed to be necessary and appropriate. The town treasurer shall maintain said fund which shall be kept separate and apart from all other accounts of said town. Any interest shall be added to and become part of the fund.

SECTION 3. Said town may appropriate from the fund by a two-thirds vote of the town meeting for any lawful purpose to offset any loss of revenue resulting from the deregulation of the electric utility industry.

SECTION 4. This act shall take effect upon its passage.

Approved August 5, 1998.

**Chapter 212. AN ACT RELATIVE TO THE AUTHORITY OF POLICE OFFICERS
OF THE CITIES OF BOSTON AND NEWTON AND THE TOWN OF
BROOKLINE.**

Be it enacted, etc., as follows:

SECTION 1. A duly sworn officer of the town of Brookline, who is authorized to exercise police powers within said town, may exercise all such police powers within 500 yards into the corporate limits of the city of Boston and the city of Newton, as if such officer were a duly sworn officer of said cities.

SECTION 2. A duly sworn officer of the city of Boston, who is authorized to exercise police powers within said city, may exercise all such police powers within 500 yards into the corporate limits of the town of Brookline and the city of Newton, as if such officer were a duly sworn officer of said town or city.

SECTION 3. A duly sworn officer of the city of Newton, who is authorized to exercise police powers within said city, may exercise all such police powers within 500 yards into the corporate limits of the town of Brookline and the city of Boston, as if such officer were a duly sworn officer of said town or city.

SECTION 4. This act shall take effect upon its acceptance by the city of Boston and the city of Newton, in the manner provided by law and upon its acceptance in the town of Brookline by a majority vote of the board of selectmen.

SECTION 5. Chapter 607 of the acts of 1979 is hereby repealed.

Approved August 5, 1998.

Chapter 213. AN ACT VALIDATING THE ACTS AND PROCEEDINGS OF THE ANNUAL AND SPECIAL TOWN MEETINGS HELD IN THE TOWN OF STOUGHTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, all acts and proceedings of the town of Stoughton at its annual and special town meetings held on May 5, 1997, and all actions taken pursuant thereto are hereby ratified, validated and confirmed, to the same extent as if the warrants for such meetings had been properly posted and published.

SECTION 2. This act shall take effect upon its passage.

Approved August 5, 1998.

Chapter 214 AN ACT RELATIVE TO WILLIAM G. SUPREY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary and in order to promote the public good, the Boston retirement board shall retire William G. Suprey, a fire captain in the city of Boston, who as a result of injuries sustained by him while in the performance of his duties on March 31, 1996, is totally and permanently incapacitated from further service as a firefighter.

The annual amount of pension payable to William G. Suprey shall be fixed in an amount equal to the regular rate of compensation which he would have been paid had he continued in service as a firefighter in said city at the grade held by him at the time of his retirement.

Upon such retirement, the Boston retirement board shall forthwith pay to him all amounts standing to his credit in the annuity savings fund of the retirement system of said city.

SECTION 2. The provisions of section 100 of chapter 41 of the General Laws shall continue to apply to William G. Suprey relative to his indemnification by the city of Boston for any hospital, medical and related expenses which may be incurred by him after the date of his retirement as a result of the aforementioned incapacity.

SECTION 3. Upon the death of William G. Suprey, if his spouse, Mary, survives him and as long as she remains unmarried, the city of Boston shall pay her an annual annuity equal to the sum of three-fourths of the amount of the pension payable to him at the time of his death and \$450 for each child of William G. Suprey for such time as such child is either under 18 years of age or totally physically or mentally incapacitated from working. If the spouse of William G. Suprey remarries, said city shall pay her, in lieu of the aforementioned annuity, an annual annuity of \$520 for each child of William G. Suprey for such time as each such child is residing with her and such child is either under 18 years of age or totally physically or mentally incapacitated from working.

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SECTION 4. This act shall take effect upon its passage.

Approved August 5, 1998.

**Chapter 215. AN ACT AUTHORIZING THE TOWN OF NORTH READING TO
CONVEY CERTAIN CONSERVATION LAND.**

Be it enacted, etc., as follows:

SECTION 1. The town of North Reading, acting by and through its board of selectmen, is hereby authorized to sell and convey a certain parcel of conservation land to an abutting entity or person. Said parcel is a portion of assessor's Map 72, parcel 35 containing 0.41 acres. Said sale price shall not be less than \$5,000.

SECTION 2. No deed conveying by or on behalf of the town of North Reading the property described in section 1 shall be valid unless such deed prohibits the construction of a residential structure on said parcel.

Approved August 5, 1998.

Chapter 216. AN ACT RELATIVE TO DENTAL SERVICE CORPORATIONS.

Be it enacted, etc., as follows:

Section 1 of chapter 176E of the General Laws is hereby amended by striking out the definition of "Registered dentist" and inserting in place thereof the following definition:-

"Registered dentist", a dentist registered to practice dentistry in the commonwealth as provided in sections 45 and 48 of chapter 112 or a dentist registered in any other jurisdiction within the United States and its territories.

Approved August 5, 1998.

**Chapter 217. AN ACT DESIGNATING A CERTAIN PARCEL OF LAND IN THE
CITY OF QUINCY AS THE DON KENT'S OCEAN VIEW.**

Be it enacted, etc., as follows:

The parcel of open space land under the control of the metropolitan district commission located at 729-733 Quincy Shore drive in the city of Quincy shall be designated and known as Don Kent's Ocean View, in honor of meteorologist Don Kent. Said commission shall erect a suitable marker thereon bearing said designation in compliance with standards of said commission.

Approved August 5, 1998.

Chapter 218. AN ACT RELATIVE TO THE FINANCE COMMITTEE IN THE TOWN OF HARVARD.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 85 of the acts of 1993 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- All appointments to said department shall be made by the board of selectmen, including the appointment of a finance director who shall administer the operations of said department and who shall be subject to the removal for cause by said board.

SECTION 2. This act shall take effect upon its passage.

Approved August 5, 1998.

Chapter 219. AN ACT AUTHORIZING THE LYNN WATER AND SEWER COMMISSION TO ENTER INTO CONTRACTS FOR THE LEASE, FINANCING, DESIGN AND CONSTRUCTION OF MODIFICATIONS FOR THE WATER WORKS SYSTEM AND SEWER WORKS SYSTEM AND THE OPERATION, MAINTENANCE, REPAIR AND REPLACEMENT OF THE WATER AND WASTEWATER TREATMENT PLANTS, PUMP STATIONS AND COMBINED SEWER OVERFLOW CONSOLIDATION AND TREATMENT FACILITIES.

Be it enacted, etc., as follows:

SECTION 1. The Lynn water and sewer commission, hereinafter referred to as the commission, established by chapter 381 of the acts of 1982, hereinafter referred to as the enabling act, is hereby authorized, notwithstanding the provisions of any general or special law or regulation to the contrary, to enter into contracts for the lease, financing, design, construction and installation of modifications, new equipment and systems necessary for the water works system and the sewer works system, as such terms are defined in the enabling act, and the operation, maintenance, repair and replacement, of the water and wastewater treatment plants, pump stations, and combined sewer overflow consolidation and treatment facilities, to ensure adequate services and to ensure the ability of said commission's water works system and sewer works system, to operate in full compliance with all applicable requirements of federal, state and local law; provided, however, that such contracts shall not be subject to the competitive bid requirements set forth in sections 38A½ to 38 O, inclusive, of chapter 7, section 39M of chapter 30, or sections 44A to 44M, inclusive, of chapter 149 of the General Laws; provided, further, that each such contract shall be awarded pursuant to the provisions of chapter 30B of the General Laws, except for clause (3) of paragraph (b) of section 6, clause (3) of paragraph (e) and paragraph (g) of said section 6 and sections 13 and 16 of said chapter 30B.

The request for proposals for such contracts shall specify the method for comparing

proposals to determine the proposal offering the lowest overall cost to the commission, including, but not limited to, all capital equipment and capital improvement costs, operating and maintenance costs and financing costs. If a contract is awarded to an offeror who did not submit the proposal offering the lowest overall cost, the commission shall explain the reason for the award in writing.

The request for proposals shall set forth the performance guarantees which the selected offeror will be required to meet in operating the water works system or the sewer works system as constructed or improved. The contract which is negotiated with the selected offeror based on the request for proposals shall obligate the selected offeror to meet such performance guarantees, and shall set forth the minimum design requirements for such construction or improvements and the acceptance tests to be conducted upon the completion of the construction or improvements in order to demonstrate that the system is capable of meeting the performance guarantees.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, a contract or contracts entered into pursuant to section 1 may provide for a term, not exceeding 20 years, and an option for renewal or extension of operation, maintenance, repair and replacement services for one additional term not exceeding five years. Any renewal or extension shall be at the sole discretion of the commission in accordance with the original contract terms and conditions or contract terms and conditions more favorable to and acceptable to the commission.

A contract entered into pursuant to this act may provide that the commission shall not be exempt from liability for payment of the costs to lease, finance, permit, design, construct and install modifications, new equipment and systems for the water works system and sewer works system and to operate, maintain, repair and replace the water and wastewater treatment plants, pump stations, and combined sewer overflow consolidation and treatment facilities as necessary to ensure the ability of the water works system and sewer works system to operate in full compliance with all applicable requirements of federal, state and local law, provided that any costs relating to financing, permitting, design, construction and installation of modifications, new equipment and systems shall be amortized over a period that is no longer than the useful life of said modifications, equipment and systems. The commission's payment obligation for services described herein shall be conditioned on the contractor's performance of said services in accordance with all contractual terms.

A contract entered into pursuant to this act may provide for such activities deemed necessary to carry out the purposes authorized herein, including, but not limited to, equipment, facility or land lease, equipment installation, repair and replacement, performance testing and operation, studies, design and engineering work, construction work, ordinary repairs and maintenance, and the furnishing of all related material, supplies and services required for the commission's water works system and sewer works system and the management, operation, maintenance, repair and replacement of the commission's water and wastewater treatment plants, pump stations, and combined sewer overflow consolidation and treatment facilities.

Nothing in this section shall be interpreted to alter the governance of the Lynn water and sewer commission established by chapter 381 of the acts of 1982.

SECTION 3. The chief procurement officer shall solicit proposals through a request for proposals which shall include those items in clauses (1) and (2) of paragraph (b) of section 6 of chapter 30B of the General Laws and the proposed key contractual terms and conditions to be incorporated into the contract, some of which may be deemed mandatory or non-negotiable; provided, however, that such request for proposals may request proposals or offer options for fulfillment of other contractual terms, and such other matters as may be determined by the commission. The request for proposals shall provide for the separate submission of price and shall indicate when and how the offerors shall submit price.

SECTION 4. The chief procurement officer shall make a preliminary determination of the most advantageous proposal from a responsible and responsive offeror taking into consideration price, estimated life-cycle costs and the other evaluation criteria set forth in the request for proposals. The chief procurement officer may negotiate all terms of the contract not deemed mandatory or non-negotiable with such offeror. If, after negotiation with such offeror, the chief procurement officer determines that it is in the commission's best interests, said chief procurement officer may initiate negotiations with the next most advantageous proposal from a responsible and responsive offeror taking into consideration price, estimated life-cycle costs and the other evaluation criteria set forth in the request for proposals, and may negotiate all terms of the contract not deemed mandatory or non-negotiable with such offeror. Said chief procurement officer shall award the contract to the most advantageous proposal from a responsible and responsive offeror taking into consideration price, estimated life-cycle costs, the evaluated criteria set forth in the request for proposals, and the terms of the negotiated contract. Subject to the approval of the commission, the chief procurement officer shall award the contract by written notice to the selected offeror within the time for acceptance specified in the request for proposals. The parties may extend the time for acceptance by mutual agreement.

SECTION 5. Notwithstanding any other provisions of this act, it shall be a mandatory term of any request for proposals issued by the commission and of any contract entered into by the commission with any party regarding the subject matter of this act that any party that has entered into a contract pursuant to said terms with the commission, shall require, in order to maintain stable and productive labor relations and to avoid interruption of the operation of the water and wastewater treatment plants and to preserve the health, safety and environmental conditions of residents of the city of Lynn and surrounding communities, that any and all employees, except the plant manager and assistant plant manager at the water and wastewater treatment plants, as applicable, hereinafter referred to as plant employees, working on the operation and maintenance of the water and wastewater treatment plants be offered employment by any party entering into a contract with the commission for the operation and maintenance of said water and wastewater plants, and further, that any party entering into said contract shall employ all plant employees employed at the water and wastewater treatment plants as of the date of execution of said contract and

continue such employment throughout the term of said contract, unless any such employee voluntarily leaves the employ of said party or is terminated for just cause by said party. Furthermore, any party entering into said contract with the commission shall provide a salary and benefits package to all plant employees which is comparable to the salary and benefits package provided to such employees by their previous employer. Moreover, said party shall adopt all terms and conditions of employment provided by the last applicable collective bargaining agreement negotiated between the labor organization representing such plant employees, if any, and the applicable employer who has most recently employed such plant employees prior to entering into any contract pursuant to this act and shall continue to recognize such terms and conditions of employment until a collective bargaining agreement has been executed between the labor organization representing such plant employees and said party. Said party shall furthermore agree to meet its legal obligations, including bargaining in good faith, with regard to any labor organization representing plant employees engaged in the operation and maintenance of the water and wastewater treatment plants described herein. Notwithstanding any other provisions of this act, any proposal or contract submitted to the commission regarding the subject matter of this act not complying with the above terms, shall be disqualified from further consideration by the commission.

SECTION 6. Any contract awarded pursuant to this act shall be subject to such terms and conditions as the commission shall determine to be in the best interests of said commission and shall be subject to a majority vote of the commission. Any such contract shall provide that prior to the construction, modification or installation of new equipment and systems the commission shall cause a qualified water and wastewater engineer to independently review and approve plans and specifications for said modifications, new equipment and systems. Such contract shall further provide that prior to acceptance of any modifications, new equipment or systems, including work undertaken pursuant to section 7 of this act and estimated to cost more than \$100,000 adjusted annually per the Construction Cost Index published by the Engineering News Report or if the Engineering News Report ceases to publish said index, any published index determined by the commission to be comparable to said index, the commission shall cause a qualified water and wastewater engineer to inspect said modifications, new equipment and systems and certify that the construction or installation has been completed in accordance with the approved plans and specifications.

SECTION 7. The provisions of any general or special law or regulation relating to the advertising, bidding or award of contracts, to the procurement of services or to the design and construction of improvements, except the provisions of sections 26 to 27H, inclusive, of chapter 149 of the General Laws, shall not be applicable to any selected offeror which is awarded a contract pursuant to this act, except as provided in this section. The construction of any new capital improvement or any renovation, modernization, installation, repair or replacement work estimated to cost more than \$100,000 adjusted annually per the Construction Cost Index published by the Engineering News Report or if the Engineering News Report ceases to publish said index, any published index determined by the commission to be comparable to said index, not specifically included in the initial contract

for the lease, financing, design, construction and installation of modifications, new equipment and systems necessary for any particular part of the water works system and the sewer works system and the operation, maintenance, repair and replacement of the water and wastewater treatment plants, pump stations, and combined sewer overflow consolidation and treatment facilities, shall be procured on the basis of advertised sealed bids; provided, however, that bids need not be solicited if the contractor causes such construction, renovation, modernization, installation, repair or replacement work to be completed without direct or indirect reimbursement from the commission, or other adjustment to the fees paid by the commission, including, but not limited to, any adjustment to water or sewer rates paid by the commission users. Bids shall be based on detailed plans and specifications and the contract shall be awarded to the lowest responsible and eligible bidder. The contractor may act as an agent of the commission in the solicitation of bids for the construction of any new capital improvement or for any renovation, modernization, installation, repair or replacement work pursuant to this section; provided that the commission shall cause a qualified water and wastewater engineer to independently assess the need for such capital improvement, renovation, modernization, installation, repair or replacement work and to review and approve the contractor's proposed plans and specifications prior to advertising for bids. Based on the recommendation of the qualified water and wastewater engineer, the commission may approve, modify, or reject the contractor's proposed plans and specifications. A contract awarded pursuant to this act shall provide that in the event that the commission does not approve the contractor's proposed plans and specifications pursuant to this section, the commission or the contractor may terminate said contract under the terms and conditions of said contract.

SECTION 8. Notwithstanding the provisions of any general or special law or regulation to the contrary, the department of environmental protection may issue project approval certificates with respect to the design/build contract procured by the commission under this act for improvements to the water system works and sewer system works, and any such design/build services included in such contract shall be eligible for assistance under the Massachusetts Water Pollution Abatement Trust established by section 2 of chapter 29C of the General Laws, and any future revolving loan fund programs established by the commonwealth or the department of environmental protection.

SECTION 9. The selected offeror shall furnish to the commission performance bonds, payment bonds, or other forms of security for the selected offeror's obligations, and insurance, satisfactory to the commission.

SECTION 10. This act shall take effect upon its passage.

Approved August 5, 1998.

Chapter 220. AN ACT FURTHER REGULATING JUNIOR OPERATORS' LICENSES.

Be it enacted, etc., as follows:

SECTION 1. Section 8 of chapter 90 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 4 and 5, the words "but before such a license is granted" and inserting in place thereof the following words:- provided, however, that no such license shall be issued to a person whose junior operator's license has been suspended or revoked or whose right to operate has been suspended while so operating under a junior operator's license until the full term of such suspension or revocation has been served without regard to the age of such person. Before a license is granted pursuant to this section.

SECTION 2. Said section 8 of said chapter 90, as so appearing, is hereby further amended by inserting after the word "it", in line 8, the following words:- and, if applicable, has surrendered his junior operator's license or operator's license issued by another state.

SECTION 3. Said section 8 of said chapter 90, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following four paragraphs:-

A junior operator's license may, under the rules and regulations established by the registrar, be issued to a minor under 18 years of age who has:

(a) held a valid learner's permit issued pursuant to section 8B or a similar law of another state for a period of not less than six months immediately preceding the date of application for a junior operator's license under this section and, during such period, has maintained a driving record free of any surchargeable incidents, as described in section 113B of chapter 175 or a similar law of another state and has not had such permit suspended under section 24P or a similar law of another state and has not been convicted of violating any alcohol-related or drug-related law of the commonwealth or a similar alcohol-related or drug-related law of any other state. For the purposes of this section, an alternative disposition of a violation including, but not limited to, having such violation continued without a finding or placed on file shall be deemed to be a conviction. Nothing in this section shall be construed to affect any penalty, fine, suspension, revocation or requirement that may be imposed under any other law of the commonwealth;

(b) attained the age of 16 and one-half years;

(c) successfully completed a driver education and training course approved by the registrar and presented a certified statement from a parent or guardian or designee over the age of 21 that the applicant has completed not less than 12 hours of supervised driving in addition to the requirements of said driver education and training course;

(d) successfully completed such examination and driving test as the registrar may require; and

(e) submitted an application on a form furnished by the registrar, signed by both the applicant and a parent or guardian, along with the fee provided in section 33.

No person holding a junior operator's license shall operate a motor vehicle during the first six months of licensure while a person under 18 years of age, other than the operator or an immediate family member of the operator, is present in such vehicle unless also accompanied by an operator, duly licensed by his state of residence, who is 21 years of age

or over, who has had at least one year of driving experience and who is occupying a seat beside the driver and any such junior operator who violates the passenger restriction provided herein shall have such junior operator's license suspended for a period of 30 days for a first offense, for a period of 60 days for a second offense and for a period of 90 days for a third or subsequent offense; provided, however, that such suspension shall be imposed in addition to any other penalty, fine, suspension, revocation or requirement that may be imposed for such violation. The six-month passenger restriction provided herein shall be tolled during any suspension or revocation of a person's junior operator's license.

No person holding a junior operator's license shall operate a motor vehicle between the hours of 12:00 a.m. and 5:00 a.m. unless accompanied by a parent or legal guardian. The holder of a junior operator's license shall have such license in his possession at all times when operating a motor vehicle and any such operator who violates the time restriction provided herein shall be deemed to be operating a motor vehicle without being duly licensed under this chapter; provided, however, that for such operation between the hours of 12:00 a.m. and 1:00 a.m. and between 4:00 a.m. and 5:00 a.m., the provisions of this paragraph shall be enforced by law enforcement agencies only when a junior operator of a motor vehicle has been lawfully stopped for a violation of the motor vehicle laws or some other offense.

No person holding a junior operator's license shall operate a vehicle requiring a commercial driver's license issued under chapter 90F.

SECTION 4. Section 8B of said chapter 90, as so appearing, is hereby amended by striking out, in line 12, the word "eighteen" and inserting in place thereof the following figure:- 21.

SECTION 5. Said section 8B of said chapter 90, as so appearing, is hereby further amended by striking out, in line 38, the word "one" and inserting in place thereof the following figure:- 12.

SECTION 6. Section 20 of said chapter 90, as so appearing, is hereby amended by inserting after the word "registrar", in line 73, the following words:- ; provided, however, that a holder of a junior operator's license who is convicted of a violation under section 17, 17A or 17B, or under a special regulation under section 18 shall, in addition to any other penalty, fine, suspension, revocation or requirement that may be imposed for such violation, have such license suspended for a period of 180 days for a second offense and for a period of one year for a third or subsequent offense.

SECTION 7. Said chapter 90 is hereby further amended by striking out section 24P, as so appearing, and inserting in place thereof the following section:-

Section 24P. (a) Upon evidence that a person under the age of 21, after having been arrested for or charged with a violation under section 24, 24G or 24L, had a blood alcohol percentage of two one-hundredths or greater or upon evidence that such person refused to submit to a chemical test or analysis of his breath or blood under section 24, notwithstanding the finding upon any such charge, such person shall have his license or permit to operate a motor vehicle suspended by the registrar for a period of 180 days; provided, however, that

any such person who is less than 18 years of age at the time of such violation shall have his license suspended by the registrar for one year. Such suspension by the registrar shall be imposed in addition to any penalty, license suspension or revocation imposed upon such person by the court as required by said section 24, 24G or 24L.

If a person has not been previously arrested for or charged with a violation under said section 24, 24G or 24L, such person shall, if he consents, be assigned to a program specifically designed by the department of public health for the treatment of underage drinking drivers; provided, however, that such assignment shall not be precluded by a finding or disposition upon a charge against such person under said section 24, 24G or 24L. Upon entry into such program, as authorized by this section or as otherwise required under any disposition pursuant to section 24D, the suspension of a license or permit to operate as required by this section shall be waived by the registrar for a person under 21 years of age but over 18 years of age; provided, however, that such suspension shall be for a period of 180 days for such person who was under the age of 18 at the time of such violation. Upon the failure of a person under the age of 21 to successfully complete such program, the registrar shall forthwith suspend such license or permit to operate for 180 days; provided, however, that upon such failure to successfully complete such program by a person who was under the age of 18 at the time of such violation, the registrar shall forthwith suspend the license or permit to operate for one year.

(b) The license or permit to operate of a person convicted of any violation under section 24, 24G, 24I or 24L who was under the age of 18 at the time of such violation and whose license or permit to operate was not suspended under subsection (a) for such violation shall have such license or permit suspended for a period of 180 days for a first offense and for a period of one year for a second or subsequent offense.

SECTION 8. Section 34A of chapter 138 of the General Laws, as so appearing, is hereby amended by striking out, in line 19, the word "ninety" and inserting in place thereof the following figure:- 180.

SECTION 9. There is hereby established a special commission to consist of two members of the senate, three members of the house of representatives, the registrar of motor vehicles or his designee and two persons to be appointed by the governor, one of whom shall be a representative of the Massachusetts Association of Professional Driving Schools and one of whom shall be a representative of the American Automobile Association for the purpose of making an investigation and study relative to the effectiveness of driver education programs certified by the department of education for public schools and driver education programs provided by private driving schools. Such investigation and study shall include, but not be limited to, the development of procedures to evaluate schools, an evaluation of training programs for instructors and the feasibility of providing an electronic data communication between driving schools and the registrar for the purpose of facilitating the efficient transfer of information as required under chapter 90 of the General Laws and rules and regulations established thereunder relative to the operation and certification of driving schools and of the certification of persons completing the program requirements of such driving schools.

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Such commission shall report to the general court the results of its investigation and study, and its recommendations, if any, together with drafts of legislation to carry its recommendations into effect, by filing the same with the clerk of the house of representatives on or before the first Wednesday in December, 1999.

SECTION 10. The provisions of clauses (a) and (c) of the second paragraph of section 8 of chapter 90 of the General Laws, as appearing in section 3 of this act, shall apply only to persons who apply for a junior operator's license under the provisions of said section 8 of said chapter 90 on or after the effective date of this act. The provisions of sections 6 and 7 shall apply only to violations committed on or after the effective date of this act. Notwithstanding the provisions of said clauses (a) and (c) of said second paragraph of said section 8 of said chapter 90 or any other general or special law or rule or regulation to the contrary, a license issued under the provisions of said section 8 of said chapter 90 or under a similar law of another state before the effective date of this act shall continue in force and be subject to the remaining provisions of this act and any other general or special law, or rule or regulation.

Approved August 6, 1998.

Chapter 221 AN ACT AUTHORIZING THE COMMONWEALTH TO ACQUIRE CERTAIN LAND IN THE TOWN OF DOUGLAS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to acquire land for the expansion of Douglas state forest, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital planning and operations shall acquire by negotiation a certain parcel of land located in the town of Douglas for the purpose of expanding the Douglas state forest. Said parcel is comprised of Map 25 Lot 1, Map 25 Lot 3, Map 18 Lot 6 and Map 18 Lot 7 of the assessors maps of the town of Douglas. Said commissioner shall offer the owner the amount determined by the appraisal prepared by Coopers and Lybrand LLP dated April 9, 1998. If said offer is not accepted within 60 days of its tender, it shall be null and void and said commissioner shall take action as provided in section 2.

SECTION 2. The commissioner of the division of capital planning and operations shall acquire by eminent domain under the provisions of chapter 79 of the General Laws the land described in section 1.

The offer of settlement under section 39 of said chapter 79 or the pro-tanto payment under section 8A of said chapter 79 shall be based on the appraisal cited in section 1.

Approved August 6, 1998.

Chapter 222. AN ACT RELATIVE TO BANKING LAWS.

Be it enacted, etc., as follows:

SECTION 1. Section 97 of chapter 140 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 14, the words "a year" and inserting in place thereof the following words:- in every two calendar years.

SECTION 2. Section 2 of chapter 167E of the General Laws, as so appearing, is hereby amended by inserting after the word "loans", in lines 2 and 27, in each instance, the following words:- primarily for the purpose of being held for its own account.

SECTION 3. Said section 2 of said chapter 167E, as so appearing, is hereby further amended by adding the following subsection:-

C. Any such bank may make or acquire any mortgage residential real estate loan, other than a reverse mortgage loan, on a dwelling house with accommodations for four or less separate households and occupied, or to be occupied, in whole or in part by the mortgagor; provided, however, that such mortgage loan is saleable in the secondary market or is underwritten in accordance with mortgage loan programs of public instrumentalities created by the commonwealth for the purpose of financing and expanding the supply of residential mortgages or affordable housing.

SECTION 4. The first paragraph of section 2 of chapter 167F of the General Laws, as so appearing, is hereby amended by striking out paragraphs 6 and 7 and inserting in place thereof the following two paragraphs:-

6. To invest such amount not exceeding 10 per cent of its capital stock, surplus account, and undivided profits for a stock corporation and not exceeding 10 per cent of its surplus account for a thrift institution or any other such amount which may be authorized under 12 USC section 618, whichever is the greater, as the commissioner may approve in the capital stock of one or more corporations organized under the laws of the United States for the purpose of engaging in international or foreign banking or other internal or foreign financial operations, or in banking or other financial operations in a dependency or insular possession of the United States, and subject to the jurisdiction and supervision of the Board of Governors of the Federal Reserve System.

7. To invest subject to the approval of the commissioner and under such limitations or conditions as he may impose, in the capital stock or shares of one or more wholly owned subsidiary corporations, limited liability corporations or trusts or such other forms of organization permitted by the commissioner, organized and operated solely for the purpose of performing functions that the bank itself is empowered to perform directly.

SECTION 5. Paragraph 2 of section 11 of chapter 168 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

Upon application in writing by any such corporation the commissioner may waive or modify the information in clauses (a) and (b) to be included in such report.

SECTION 6. Said chapter 168 is hereby further amended by striking out sections 17 and 18, as so appearing, and inserting in place thereof the following two sections:-

Section 17. The by-laws of the corporation may provide for any and all matters relative to the business and affairs of the corporation as appropriate to exercise all powers

necessary, convenient or incidental to the purposes for which the corporation was formed.

Section 18. Officers and employees of such corporation shall be bonded to the extent and in the form determined by the board of trustees.

SECTION 7. Section 26 of said chapter 168, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Each such corporation shall prepare a balance sheet, in accordance with generally accepted accounting principles, which presents fairly its condition as of the last business day of its fiscal year. A copy of said balance sheet shall be made available to a depositor upon request.

SECTION 8. Section 7 of chapter 170 of the General Laws, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

The by-laws may also provide for such other matters relative to the business and affairs of the corporation as appropriate to exercise all powers necessary, convenient or incidental to the purposes for which the corporation was formed.

SECTION 9. Said chapter 170 is hereby further amended by striking out section 15, as so appearing, and inserting in place thereof the following section:-

Section 15. Officers and employees of such corporation shall be bonded to the extent and in the form determined by the board of directors.

SECTION 10. Section 18 of said chapter 170, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Each such corporation shall prepare a balance sheet, in accordance with generally accepted accounting principles, which presents fairly its condition as of the last business day of its fiscal year. A copy of said balance sheet shall be made available to a depositor upon request.

SECTION 11. Section 3 of chapter 171 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

Notwithstanding any other provision of this chapter, a community development credit union may be organized subject to the approval of the commissioner under such procedures, terms and conditions as said commissioner may impose. A community development credit union shall demonstrate to the satisfaction of said commissioner that most of its members are of low to moderate income or it intends to primarily serve low to moderate income individuals or areas. Such a credit union may accept shares or deposits from nonmembers.

SECTION 12. Said chapter 171 is hereby further amended by striking out section 27, as so appearing, and inserting in place thereof the following section:-

Section 27. Each such corporation shall prepare a balance sheet, in accordance with generally accepted accounting principles, which presents fairly its condition as of the last business day of its fiscal year. A copy of said balance sheet shall be made available to a depositor upon request.

SECTION 13. Section 11 of chapter 172 of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following two sentences:- Such corporation may adopt by-laws for the proper management of its affairs

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and as appropriate to exercise all powers necessary, convenient or incidental to the purposes for which the corporation was formed. It may also establish regulations controlling the assignment and transfer of its shares.

SECTION 14. Said chapter 172 is hereby further amended by striking out section 15, as so appearing, and inserting in place thereof the following section:-

Section 15. The officers of such corporation shall be a president, clerk or secretary, treasurer and such other officers as may be prescribed in accordance with its by-laws and they shall be sworn to the faithful performance of their duties. Officers and employees of such corporation shall be bonded to the extent and in the form determined by the board of directors.

SECTION 15. The first paragraph of section 19 of said chapter 172, as so appearing, is hereby amended by striking out the first sentence.

SECTION 16. Section 22 of said chapter 172, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Each such corporation shall prepare a balance sheet, in accordance with generally accepted accounting principles, which presents fairly its condition as of the last business day of its fiscal year. A copy of said balance sheet shall be made available to a depositor upon request.

SECTION 17. Said chapter 172 is hereby further amended by striking out section 28, as so appearing, and inserting in place thereof the following section:-

Section 28. The directors of a trust company may annually, semi-annually or quarterly, but no more frequently, declare such dividends as they deem judicious to be paid from net profits. No dividends shall be declared, credited or paid so long as there is any impairment of capital stock. No trust company having outstanding preferred stock shall, except as otherwise authorized by the commissioner, declare dividends upon common stock for any period other than a period for which dividends are declared upon preferred stock.

The approval of said commissioner shall be required if the total of all dividends declared by a trust company in any calendar year shall exceed the total of its net profits for that year combined with its retained net profits of the preceding two years, less any required transfer to surplus or a fund for the retirement of any preferred stock.

For the purposes of this section, the words net profits shall mean the remainder of all earnings from current operations plus actual recoveries on loans and investments and other assets after deducting from the total thereof all current operating expenses, actual losses, accrued dividends on preferred stock, if any, and all federal and state taxes.

Approved August 6, 1998.

Chapter 223. AN ACT RELATIVE TO STATE CHARTERED CREDIT UNIONS.

Be it enacted, etc., as follows:

Chapter 171 of the General Laws is hereby amended by inserting after section 6, as

appearing in the 1996 Official Edition, the following section:-

Section 6A. Notwithstanding other provisions of this chapter, a credit union organized under the provisions of this chapter and insured by the National Credit Union Share Insurance Fund may exercise any power and engage in any activity that is permissible for a credit union organized under the provisions of the Federal Credit Union Act in accordance with regulations promulgated by the commissioner pursuant to this section; provided, however, that any such activity is not otherwise prohibited. In determining whether or not to authorize any such activity, the commissioner shall also determine whether or not competition among credit unions will be unreasonably affected and whether public convenience and advantage will be promoted. Said commissioner shall promulgate regulations necessary to carry out the provisions of this section. Except for emergency regulations adopted pursuant to section 2 of chapter 30A, any such regulation, or any amendment or repeal thereof, shall, after compliance with all applicable provisions of said chapter 30A except section 5, shall be submitted to the general court.

Said commissioner shall file the proposed regulation, amendment or repeal with the clerk of the house of representatives, together with a statement that the pertinent provisions of said chapter 30A have been complied with and a summary of the regulations in layman's terms. Said clerk shall refer such filing to the joint committee on banks and banking within five days of the filing thereof. No such regulation shall take effect until 90 days after it has been so filed; provided, however, that such 90 day period shall not include days when the general court is prohibited by law or rule from meeting in formal session.

Approved August 6, 1998.

Chapter 224. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF GREENFIELD.

Be it enacted, etc., as follows:

SECTION 1. Section 5.2 of the charter of the town of Greenfield, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out the second sentence.

SECTION 2. Said charter is hereby further amended by striking out sections 18.5 and 18.6 and inserting in place thereof the following section:-

18.5 *Measures in General.* The town council may pass any measure through all of its stages at one meeting. On the first occasion that the question of adopting a measure is put to the council, except an emergency measure as defined in section 18.1, if twenty-five per cent (25%) or more of the members present object to the taking of a vote, the vote shall be postponed until the next meeting of the town council, regular or special. If, when the matter is next taken up for a vote, ten or more members object to the taking of a vote, the vote shall be further postponed for not less than an additional five (5) days. This procedure shall not be used more than once for any measure, notwithstanding any amendment to the original

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measure.

SECTION 3. Section 22.4.4 of said charter is hereby amended by striking out, in line 6, the words "thirty (30) nor more than forty-five (45)" and inserting in place thereof the following words:- forty-five (45) nor more than sixty (60).

SECTION 4. Said charter is hereby further amended by striking out section 24.5 and inserting in place thereof the following section:-

24.5 *Review of By-laws.* The town council shall provide, in each year ending in a five or in a zero, for a review of all by-laws of the town for the purpose of determining if any amendments or revisions may be necessary or desirable. A report, with recommendations, shall be submitted within said year to the town council.

SECTION 5. Section 26.5 of said charter is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- If the petition shall be found and certified by the town clerk to be sufficient, he shall submit the same with his certificate to the selectmen without delay, and the selectmen shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five (5) days thereafter, order an election to be held on a Tuesday fixed by them not less than forty-five (45) nor more than sixty (60) days after the date of the town clerk's certificate that a sufficient petition is filed; provided, however, that if any other town election is to occur within ninety (90) days after the date of the certificate, the selectmen shall postpone the holding of the recall election to the date of such other election.

Approved August 6, 1998.

Chapter 225. AN ACT RELATIVE TO THE GROTON COUNTRY CLUB AUTHORITY.

Be it enacted, etc., as follows:

The first paragraph of section 8 of chapter 533 of the acts of 1991, as amended by section 6 of chapter 115 of the acts of 1995, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- The fiscal year for the Authority shall be the calendar year.

Approved August 6, 1998.

Chapter 226. AN ACT AUTHORIZING THE TOWN OF HULL TO LEASE CERTAIN PROPERTY.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section 3 of chapter 40 of the General Laws rela-

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tive to the maximum time for the lease of property, the town of Hull, acting by and through its board of selectmen, may lease a certain parcel of land and the building thereon for a period not to exceed 25 years. Said parcel is shown as Lot 98 on Assessor's Map 34.

Approved August 6, 1998.

**Chapter 227. AN ACT AUTHORIZING THE TOWN OF LUNENBURG TO
CONVEY A CERTAIN PARCEL OF CONSERVATION LAND.**

Be it enacted, etc., as follows:

SECTION 1. The town of Lunenburg, acting by and through the board of selectmen, may convey a certain parcel of conservation land to Barbara Brown to be used for residential purposes. Said parcel consists of approximately 3.2 acres and is bounded and described as follows:-

Beginning at a point on the easterly side of Townsend Harbor Road, which point is at the line dividing the Residence A and Outlying districts; running in an easterly direction for a distance of 1254 feet to a point on the boundary line of Brown land. Thence turning and running southerly along the boundary line of Brown land for a distance of 125 feet. Thence turning and running westerly and parallel with the line which forms the Residence A and Outlying district boundary line for a distance of 1254 feet to a point on the easterly side of Townsend Harbor Road. Thence running along the side line of Townsend Harbor Road for a distance of 125 feet to the point of the beginning. This parcel is a portion of Lot 34-820 on Assessors Map 35.

SECTION 2. In consideration of the conveyance authorized in section 1, Barbara Brown shall convey a certain parcel of land to the town of Lunenburg to be used for conservation purposes. Said parcel consisting of 23.5 acres, more or less, is shown as a portion of Lot 35-2 on Assessors Map 35 of said town and is a portion of the property as shown in a deed recorded in the northern district registry of deeds in the county of Worcester in Book 1101 at Page 37, dated November 12, 1972. The parcel to be conveyed to the town by the said Barbara Brown shall be of equal or greater value to the parcel to be conveyed pursuant to section 1. The value of such parcels shall be determined by independent appraisals.

SECTION 3. Barbara Brown shall produce a survey of both parcels satisfactory to the board of selectmen of the town of Lunenburg. Said Barbara Brown shall be responsible for the costs of appraisals, surveys, recordings and other expenses incurred as a result of the conveyance authorized by this act.

Approved August 6, 1998.

Chapter 228. AN ACT RELATIVE TO SELF TESTING PROGRAMS BY BANKS.

Be it enacted, etc., as follows:

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Chapter 167 of the General Laws is hereby amended by adding the following three sections:-

Section 49. Whenever used in this section, and sections 50 and 51, the following words shall, unless the context requires otherwise, have the following meanings:

"Appropriate corrective action", action taken by the board of directors or trustees of a bank pursuant to findings contained in a compliance review document in accordance with 12 CFR 202.15.

"Compliance review document", a report prepared for and at the direction of the compliance review supervisor or created by said supervisor, and certified by said supervisor, detailing the results of any self testing program together with recommendations, if any, for appropriate corrective action.

"Compliance review supervisor", an employee, officer or director of a bank appointed by the board of directors or trustees of such bank to supervise the self testing programs hereinafter defined.

"Fair lending laws", any federal or state law, rule or regulation which expressly regulates the equal availability of credit including, but not limited to, applicable provisions of chapter 151B and the Federal Equal Credit Opportunity Act.

"Self testing", any program or study relating to the practice of using fictitious applicants for credit, so-called, "matched pairs", and Regression Analysis, that a bank voluntarily conducts or authorizes a third party to conduct to test for distinctions in treatment or discrimination based on any prohibited basis as defined under the applicable sections of chapter 151B or the Federal Equal Credit Opportunity Act, including but not limited to, race, ethnic background or gender at the pre-application and application stage of the residential mortgage lending process.

Section 50. A bank, by vote of its board of directors or trustees, may appoint a compliance review supervisor to conduct self testing programs on a continuing basis. Upon any such appointment, such board of directors or trustees forthwith shall file with the commissioner the name of the person so appointed.

For the purpose of conducting such self testing programs, such supervisor may utilize the services of departments and other employees and officers of the bank and, with the approval of such board of directors or trustees, third-party contractors. The results of any such self testing program, together with all documents and materials relevant thereto, shall be certified by such supervisor as a compliance review document and shall be the property of the bank. The supervisor shall transmit said document to the board of directors or trustees for its review and appropriate corrective action, whenever the same is deemed to be required. Any such compliance review document, together with a statement signed by the directors or trustees detailing appropriate corrective action, if any, taken in consequence thereof, shall be provided to the commissioner during the course of any examination of the bank conducted by him pursuant to section 2.

Section 51. Except as provided in section 50, the proceedings of the compliance review supervisor and the contents of any compliance review document shall, notwithstanding any other law or regulation to the contrary, remain confidential and shall not be discoverable

or admissible in evidence in any civil proceeding, except an enforcement proceeding brought under state law by the appropriate federal or state regulator of the bank, arising out of or related to any self testing programs conducted by such supervisor. A person who assists in any such program or who prepares, reviews or receives such compliance review document shall not be required to give testimony in any civil proceeding, except such enforcement proceeding by such federal or state regulator, as to any matters concerning the contents of any such compliance review document. Any evidence elicited from any such person relative thereto shall, except for said exception, be inadmissible in any such civil proceeding brought under state law.

The provisions of this section shall not apply to any such compliance review document if, after the receipt of a compliance review document from the compliance review supervisor, the board of directors or trustees of the bank:-

(a) fails to take appropriate corrective action, unless a reasonable good faith determination has been made in writing by said directors that such action is not required; or

(b) voluntarily discloses all or any part of the details or conclusions of said compliance review document to an applicant or to the public, or otherwise uses the same as a defense to charges that the bank has violated any fair lending law; provided, however, that the disclosure to an applicant or to the public that the bank has a self testing program in existence or the release of said compliance review document to the commissioner or the bank's primary federal regulator shall not be deemed to be a voluntary disclosure for this purpose.

The provisions of this section shall not apply to any information required by law or regulation to be maintained by or provided to a governmental agency while such information is in the possession of such agency to the extent that applicable law authorizes or requires its disclosure.

Nothing in this section shall be construed so as to limit the discovery or admissibility into evidence in any civil action of documents that have not been certified as compliance review documents.

Approved August 6, 1998.

Chapter 229. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS AND NOTES TO BE ISSUED BY THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to facilitate forthwith the issuance of bonds and notes to carry out the purposes of certain acts passed by the general court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

For the purposes of making available for expenditure in fiscal year 1998 and, notwithstanding any provision of law to the contrary, the bonds which the state treasurer is

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authorized to issue under section 8A of chapter 212 of the acts of 1975 shall be issued for a term not to exceed 20 years, as recommended by the governor in a message to the general court dated June 9, 1998, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

Approved August 6, 1998.

Chapter 230. AN ACT AUTHORIZING THE TRANSFER OF CERTAIN STATE OWNED LAND IN THE TOWN OF CANTON.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to authorize the transfer of certain state owned land in the town of Canton, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital asset management and maintenance, in consultation with the commissioner of the metropolitan district commission, may transfer a certain parcel of land under the care and control of said commission situated within the Blue Hills Reservation and located in the town of Canton to the care and control of the Massachusetts highway department.

Said parcel is shown on a plan entitled "Plan of land owned by the Metropolitan District Commission in Canton, Massachusetts," dated July 2, 1998, prepared by Vanasse, Hangen & Brustlin, which plan is on file at the metropolitan district commission.

SECTION 2. The consideration by said department for the transfer authorized by section 1 of this act shall consist of certain mitigation measures to benefit the Blue Hills Reservation in a manner and to an extent deemed reasonable and satisfactory by the commissioner of the division of capital asset management and maintenance, in consultation with the commissioner of the metropolitan district commission.

Approved August 6, 1998.

Chapter 231. AN ACT RELATIVE TO PERSONNEL RECORDS.

Be it enacted, etc., as follows:

Section 52C of chapter 149 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Any employer receiving a written request from an employee shall provide the employee with an opportunity to review his personnel record within five business days of such request. The review shall take place at the place of employment and during normal bus-

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iness hours. An employee shall be given a copy of his personnel record within five business days of submission of a written request for such copy to his employer.

Approved August 6, 1998.

Chapter 232. AN ACT RELATIVE TO THE PREVENTION OF DRUG INDUCED RAPE AND KIDNAPPING.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to prevent forthwith drug induced rape and kidnapping, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Class A of section 31 of chapter 94C of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following paragraph:-

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation that contains any quantity of the following substances including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designations:

- (1) Flunitrazepam
- (2) Gamma Hydroxy Butyric Acid
- (3) Ketamine Hydrochloride.

SECTION 2. Chapter 265 of the General Laws is hereby amended by inserting after section 26A the following section:-

Section 26B. Whoever applies, administers to or causes to be taken by a person any drug, matter or thing with intent to stupefy or overpower such person so as to, without lawful authority, forcibly or secretly confine or imprison another person within the commonwealth against his will or to forcibly carry or send such person out of the commonwealth, or to forcibly seize and confine or inveigle or kidnap such person with intent to cause him to be secretly confined or imprisoned in the commonwealth against his will, or to cause him to be sent out of the commonwealth against his will or in any way held to service against his will, shall be punished by imprisonment in the state prison for life or for any term of years not less than ten years. Whoever violates the provisions of this section with the intent to extort money or other valuable thing thereby shall be punished by imprisonment in the state prison for life or for any term of years not less than 15 years.

SECTION 3. Chapter 272 of the General Laws is hereby amended by striking out sections 3 and 4, as so appearing, and inserting in place thereof the following two sections:-

Section 3. Whoever applies, administers to or causes to be taken by a person any drug, matter or thing with intent to stupefy or overpower such person so as to thereby enable any person to have sexual intercourse or unnatural sexual intercourse with such person shall be punished by imprisonment in the state prison for life or for any term of years not less than ten years.

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Section 4. Whoever induces any person under 18 years of age of chaste life to have unlawful sexual intercourse shall be punished by imprisonment in the state prison for not more than three years or in a jail or house of correction for not more than two and one-half years or by a fine of not more than \$1,000 or by both such fine and imprisonment.

SECTION 4. Section 11 of said chapter 272, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "two to six, inclusive," and inserting in place thereof the following words:- 2, 4 and 6.

Approved August 7, 1998.

Chapter 233. AN ACT RELATIVE TO THE LEASING OF CERTAIN PROPERTY BY THE TOWN OF WARWICK.

Be it enacted, etc., as follows:

SECTION 1. The town of Warwick is hereby authorized to lease a portion of the real property identified as Warwick Assessors' Map 405, Parcel 38, to the Pioneer Valley Regional School District as the site for a new elementary school. Such lease shall be for a term not exceeding 50 years and shall be authorized, executed and delivered on behalf of said town by its board of selectmen and on behalf of said school district by its regional district school committee.

The consideration for such lease shall be determined by said board of selectmen. Such lease may provide that it shall terminate, and the leased property shall revert to the town of Warwick, if said town should no longer be a member of the Pioneer Valley Regional School District or if the regional district school committee should determine that the land, with the buildings and other improvements thereon, is no longer needed for the educational program of said school district.

SECTION 2. This act shall take effect upon its passage.

Approved August 7, 1998.

Chapter 234. AN ACT AUTHORIZING THE TOWN OF NATICK TO LEASE A CERTAIN BUILDING.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 3 of chapter 40 of the General Laws relative to the length of certain leases, the town of Natick, acting by and through its board of selectmen, with the prior approval of town meeting, is hereby authorized to lease the land and building located at 13 East Central street in said town, which is known as the Natick town hall for a term not to exceed 50 years.

SECTION 2. This act shall take effect upon its passage.

Approved August 7, 1998.

Chapter 235. AN ACT PROVIDING FOR THE FINANCING OF THE CENTRAL ARTERY PROJECT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the financing of the Central Artery Project, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 2DD of chapter 29 of the General Laws, as appearing in section 17 of chapter 11 of the acts of 1997, is hereby amended by adding the following sentence:- In order to accommodate discrepancies between the receipt of revenues and related expenditures, the department of highways may incur expenses and the comptroller may certify for payment amounts not to exceed the aggregate amount intended to be paid to the capital expenditure reserve fund by the Massachusetts Turnpike Authority and the Massachusetts Port Authority, as evidenced by agreements entered into between each such authority and the secretary for administration and finance.

SECTION 2. Subsection (c) of section 12 of chapter 81A of the General Laws, as appearing in section 6 of chapter 3 of the acts of 1997, is hereby amended by adding the following four sentences:- In recognition of the financial burden that would otherwise be imposed upon the authority by virtue of its assumption of the responsibility for the operation and maintenance of the central artery and the central artery north area, the secretary of administration and finance, on behalf of the commonwealth, shall, with the concurrence of the secretary of transportation and construction, enter into a contract with the authority prior to June 30, 1999, providing for payments by the commonwealth to the authority, as soon as practicable after the conclusion of each fiscal year but not later than December 1 of each fiscal year, of the amount of the cost of such operation and maintenance during such fiscal year, as certified by the authority, but not less than \$2,000,000 on account of the 2000 fiscal year, not less than \$5,000,000 on account of each fiscal year thereafter prior to the transfer of the final segment of the central artery and the central artery north area to the authority and not more than \$25,000,000 on account of each fiscal year after such transfer, beginning with the fiscal year during which such transfer occurs. The term of such contract shall extend until the end of the 40th fiscal year following such transfer. Such amounts may be treated as revenues by the authority within the meaning of section 6 and the authority may pledge such contract and the rights of the authority to receive amounts thereunder as security for the payment of notes or bonds issued under the provisions of this chapter. Such contract shall constitute a general obligation of the commonwealth for which the faith and credit of the commonwealth shall be pledged for the benefit of the authority and of the holders of any notes or bonds of the authority which may be secured by a pledge of such contract or of amounts to be received by the authority under such contract.

SECTION 3. Subsection (a) of section 15 of chapter 102 of the acts of 1995 is hereby amended by striking out, in lines 7 and 8, the words:- to make up for the shortfall of federal funds.

SECTION 4. The first paragraph of section 9 of chapter 11 of the acts of 1997, as appearing in section 1 of chapter 121 of the acts of 1998, is hereby amended by adding the following sentence:- Notwithstanding any general or special law to the contrary, for the purposes of this section, the maximum amount of notes outstanding at any time shall be deemed to be the amount of such notes theretofore issued, as determined in accordance with section 49 of chapter 29 of the General Laws, and then outstanding.

SECTION 5. The fourth sentence of the second paragraph of section 10B of said chapter 11, as so appearing, is hereby amended by adding the following words:- and referenced in section 10C.

SECTION 6. The first paragraph of section 10C of said chapter 11, as so appearing, is hereby amended by inserting after the words "120 per cent" the following words:- , hereinafter referred to as the debt service coverage percentage.

SECTION 7. The first sentence of the second paragraph of said section 10C of said chapter 11, as so appearing, is hereby amended by striking out the words "by law with respect to the federal highway construction program, or a successor thereto," and inserting in place thereof the following words:- from the Federal Highway Trust Fund for carrying out the provisions of Title 23 of the United States Code with respect to federal-aid highways or any successor federal program thereto.

SECTION 8. The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of temporarily financing up to \$600,000,000 of expenditures related to the Central Artery/Ted Williams Tunnel Project in anticipation of payments from: (i) the Massachusetts Turnpike Authority pursuant to clause (vii) of subsection (b) of section 12 of chapter 81A of the General Laws; and (ii) the Massachusetts Port Authority pursuant to clause (iii) of subsection (f) of said section 12 of said chapter 81A and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time at such rates, including rates variable from time to time according to an index, banker's loan rate or otherwise, as the state treasurer shall fix or determine; provided, however, that the total expenditures financed with the notes issued pursuant to this section and the bonds issued pursuant to subsection (b) of section 15 of chapter 102 of the acts of 1995 shall not exceed \$600,000,000 in the aggregate. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding seven years, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of the notes, whether original or renewal, shall be not later than June 30, 2007. Notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

SECTION 9. Sections 1 and 3 of this act shall take effect as of June 30, 1998.

Approved August 7, 1998.

Chapter 236. AN ACT RELATIVE TO THE PAYMENT OF WAGES.

Be it enacted, etc., as follows:

SECTION 1. Section 39G of chapter 30 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 84, the word "periodic,".

SECTION 2. The sixth paragraph of said section 39G of said chapter 30, as so appearing, is hereby amended by inserting after the first sentence the following two sentences:- Within 15 days, 30 days in the case of the commonwealth, after receipt from the contractor, at the place designated by the awarding authority, if such place is so designated, of a periodic estimate requesting payment of the amount due for the preceding periodic estimate period, the awarding authority shall make a periodic payment to the contractor for the work performed during the preceding periodic estimate period and for the materials not incorporated in the work but delivered and suitably stored at the site, or at some location agreed upon in writing, to which the contractor has title or to which a subcontractor has title and has authorized the contractor to transfer title to the awarding authority, upon certification by the contractor that he is the lawful owner and that the materials are free from all encumbrances. The awarding authority shall include with each such payment interest on the amount due pursuant to such periodic estimate at the rate herein above provided from the due date.

SECTION 3. Section 39K of said chapter 30, as so appearing, is hereby amended by striking out, in line 8, the word "forty-five" and inserting in place thereof the following figure:- 30.

SECTION 4. Said section 39K of said chapter 30, as so appearing, is hereby further amended by inserting after the word "authority," in line 17, the following words:- upon certification by the contractor that he is the lawful owner and that the materials are free from all encumbrances, but.

SECTION 5. Section 26 of chapter 149 of the General Laws, as so appearing, is hereby amended by inserting after the word "town", in lines 3, 16 and 37, the following word:- , authority.

SECTION 6. Section 27 of said chapter 149, as so appearing, is hereby amended by striking out, in lines 49 and 50, the words "be punished by a fine of not more than ten thousand dollars" and inserting in place thereof the following words:- have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C. The president and treasurer of a corporation and any officers or agents having the management of such corporation shall also be deemed to be employers of the employees of any corporation within the meaning of sections 26 to 27B, inclusive.

SECTION 7. Said chapter 149 is hereby further amended by striking out section 27C, as so appearing, and inserting in place thereof the following section:-

Section 27C. (a)(1) Any employer, contractor or subcontractor, or any officer, agent, superintendent, foreman, or employee thereof who willfully violates any provision of section 26, 27, 27A, 27B, 27F, 27G, 27H, 148 or 148B or section 1A, 1B or 19 of chapter 151, shall be punished by a fine of not more than \$25,000 or by imprisonment for not more than one

year for a first offense, or by both such fine and imprisonment and for a subsequent willful offense a fine of not more than \$50,000, or by imprisonment for not more than two years, or by both such fine and such imprisonment.

(2) Any employer, contractor or subcontractor, or any officer, agent, superintendent, foreman or employee thereof who without a willful intent to do so, violates any provision of section 26, 27, 27A, 27B 27F, 27G, 27H, 148 or 148B or section 1A, 1B or 19 of chapter 151, shall be punished by a fine of not more than \$10,000, or by imprisonment for not more than six months for a first offense, and for a subsequent offense by a fine of not more than \$25,000 or by imprisonment for not more than one year, or by both such fine and such imprisonment. A complaint or indictment hereunder or under the provisions of the first paragraph may be sought either in the county where the work was performed or in the county where the employer, contractor, or subcontractor has a principal place of business. In the case of an employer, contractor, or subcontractor who has his principal place of business outside the commonwealth, a complaint or indictment may be sought either in the county where the work was performed or in Suffolk county.

(3) Any contractor or subcontractor convicted of willfully violating any provision of section 26, 27, 27A, 27B, 27F, 27G or 27H shall, in addition to any criminal penalty imposed, be prohibited from contracting, directly or indirectly, with the commonwealth or any of its agencies or political subdivisions for the construction of any public building or other public works, or from performing any work on the same as a contractor or subcontractor, for a period of five years from the date of such conviction. Any contractor or subcontractor convicted of violating any provision of section 26, 27, 27A, 27B, 27F, 27G or 27H shall, in addition to any criminal penalty imposed, be prohibited from contracting, directly or indirectly, with the commonwealth or any of its agencies, authorities or political subdivisions for the construction of any public building or other public works or from performing any work on the same as a contractor or subcontractor, for a period not to exceed six months from the date of such conviction for a first offense and up to three years from the date of conviction for subsequent offense. After final conviction and disposition of a violation pursuant to this paragraph in any court, the clerk of said court shall send a notice of such conviction to the attorney general, who shall send written notice to all departments and agencies of the commonwealth which contract for public construction and to the appropriate authorities of counties, authorities, cities and towns that such person is prohibited from contracting, directly or indirectly, with the commonwealth or any of its authorities or political subdivisions for the period of time required under this paragraph. The attorney general may take such action as may be necessary to enforce the provisions of this paragraph, and the superior court shall have jurisdiction to enjoin or invalidate any contract award made in violation of this paragraph.

(b)(1) As an alternative to initiating criminal proceedings pursuant to subsection (a), the attorney general may issue a written warning or a civil citation upon the inspection of a public works or other workplace. For each violation, a separate citation may be issued requiring any or all of the following: that the infraction be rectified, that restitution be made

to the aggrieved party, or that a civil penalty of not more than \$25,000 for each violation be paid to the commonwealth, within 21 days of the date of issuance of such citation. For the purposes of this paragraph, each failure to pay an employee the appropriate rate or prevailing rate of pay for any pay period may be deemed a separate violation, and the pay period shall be a minimum of 40 hours unless such employee has worked fewer than 40 hours during that week.

(2) Notwithstanding the foregoing, the maximum civil penalty that may be imposed upon any employer, contractor or subcontractor, who has not previously been either criminally convicted of a violation of the provisions of this chapter or chapter 151 or issued a citation hereunder, shall be no more than \$15,000, except that in instances in which the attorney general determines that the employer, contractor or subcontractor lacked specific intent to violate the provisions of this chapter or said chapter 151, the maximum civil penalty for such an employer, contractor or subcontractor who has not previously been either criminally convicted of a violation of the provisions of this chapter or said chapter 151 or issued a citation hereunder shall be not more than \$7,500. In determining the amount of any civil penalty to be assessed hereunder, said attorney general shall take into consideration previous violations of this chapter or said chapter 151 by the employer, the intent by such employer to violate the provisions of this chapter or said chapter 151, the number of employees affected by the present violation or violations, the monetary extent of the alleged violations, and the total monetary amount of the public contract or payroll involved.

(3) In the case of a citation for violating any provision of section 26, 27, 27A, 27B, 27F, 27G or 27H, the attorney general may also order that a bond in an amount necessary to rectify the infraction and to ensure compliance with sections 26 to 27H, inclusive, and with other provisions of law, be filed with said attorney general, conditioned upon payment of said rate or rates of wages, including payments to health and welfare funds and pension funds, or the equivalent payment in wages, on said public works to any person performing work within classifications as determined by the commissioner. Upon any failure to comply with the requirements set forth in such citation, said attorney general may order the cessation of all or the relevant portion of the work on the project site. In addition, any contractor or subcontractor failing to comply with the requirements set forth in such citation or order, shall be prohibited from contracting, directly or indirectly, with the commonwealth or any of its agencies or political subdivisions for the construction of any public building or other public works, or from performing any work on the same as a contractor or subcontractor, for a period of one year from the date of issuance of such citation or order. Any contractor or subcontractor who receives three citations or orders occurring on three different occasions, each of which includes a finding of intent, within a three year period shall automatically be debarred for a period of two years from the date of issuance of the third such citation or order. Any debarment hereunder shall also apply to all affiliates of the contractor or subcontractor, as well as any successor company or corporation that said attorney general, upon investigation, determines to not have a true independent existence apart from that of the violating contractor or subcontractor.

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(4) Any person aggrieved by any citation or order issued pursuant to this subsection may appeal said citation or order by filing a notice of appeal with the attorney general and the division of administrative law appeals within ten days of the receipt of the citation or order. Any such appellant shall be granted a hearing before the division of administrative law appeals in accordance with chapter 30A. The hearing officer may affirm, vacate, or modify the citation or order. Any person aggrieved by a decision of the hearing officer may file an appeal in the superior court pursuant to the provisions of said chapter 30A.

(5) In cases when the decision of the hearing officer of the division of administrative law appeals is to debar or suspend the employer, said suspension or debarment shall not take effect until 30 days after the issuance of such order; provided, however, that the employer shall not bid on the construction of any public work or building during the aforementioned 30 day period unless the superior court temporarily enjoins the order of debarment or suspension.

(6) If any person shall fail to comply with the requirements set forth in any order or citation issued by the attorney general hereunder, or shall fail to pay any civil penalty or restitution imposed thereby within 21 days of the date of issuance of such citation or order or within 30 days following the decision of the hearing officer if such citation or order has been appealed, excluding any time during which judicial review of the hearing officer's decision remains pending, said attorney general may apply for a criminal complaint for the violation of the appropriate section of this chapter.

(7) Notwithstanding the provisions of paragraph (6), if any civil penalty imposed by a citation or order issued by the attorney general remains unpaid beyond the time period specified for payment in said paragraph (6), such penalty amount, together with interest thereon at the rate of 18 per cent per annum, shall be a lien upon the real estate and personal property of the person who has failed to pay such penalty. Such lien shall take effect by operation of law on the day immediately following the due date for payment of such fine, and, unless dissolved by payment, shall as of said date be considered a tax due and owing to the commonwealth, which may be collected through the procedures provided for by chapter 62C. In addition to the foregoing, no officer of any corporation which has failed to pay any such penalty may incorporate or serve as an officer in any corporation which did not have a legal existence as of the date said fine became due and owing to the commonwealth.

(c) Civil and criminal penalties pursuant to this section shall apply to employers solely with respect to their wage and benefit obligations to their own employees.

SECTION 8. Section 27F of said chapter 149, as so appearing, is hereby amended by striking out, in lines 21 and 22, the words "be punished by a fine of not less than one thousand nor more than five thousand dollars" and inserting in place thereof the following words:- have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C.

SECTION 9. Section 27H of said chapter 149 is hereby amended by striking out the fifth sentence, as amended by chapter 137 of the acts of 1997, and inserting in place thereof the following sentence:- Whoever pays less than said rates of wages, including payments to

health and welfare funds and pension funds, or the equivalent in wages, on said works, and whoever accepts for his own use, or for the use of any other person as a rebate, gratuity or in any other guise, any part or portion of said wages, health and welfare funds or pension funds, shall have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C.

SECTION 10. Section 148 of said chapter 149 is hereby amended by striking out the last paragraph, as appearing in the 1996 Official Edition, and inserting in place thereof the following paragraph:-

Whoever violates this section shall be punished or shall be subject to a civil citation or order as provided in section 27C.

SECTION 11. Section 148A of said chapter 149, as so appearing, is hereby amended by adding the following paragraph:-

Any employer who discharges or in any other manner discriminates against any employee because such employee has made a complaint to the attorney general or any other person, or assists the attorney general in any investigation under this chapter, or has instituted, or caused to be instituted any proceeding under or related to this chapter, or has testified or is about to testify in any such proceedings, shall, upon conviction thereof, be punished by a fine of not more than \$50,000, or by imprisonment for not more than six months, or by both such fine and such imprisonment.

SECTION 12. Section 148B of said chapter 149, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

Whoever violates this section shall be punished or shall be subject to a civil citation or order as provided in section 27C.

SECTION 13. Section 1B of chapter 151 of the General Laws, as so appearing, is hereby amended by striking out, in lines 3 to 6, inclusive, the words "be punished by a fine of not less than fifty nor more than two hundred dollars or by imprisonment for not less than ten nor more than ninety days, or by both such fine and imprisonment" and inserting in place thereof the following words:- have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C of chapter 149.

SECTION 14. Section 19 of said chapter 151, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words "be punished by a fine of not less than fifty and not more than two hundred dollars" and inserting in place thereof the following words:- have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C of chapter 149.

SECTION 15. Said section 19 of said chapter 151, as so appearing, is hereby further amended by striking out, in lines 19 to 22, inclusive, the words "be punished by a fine of not less than fifty nor more than two hundred dollars or by imprisonment for not less than ten nor more than ninety days, or by both such fine and imprisonment" and inserting in place thereof the following words:- have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C of chapter 149.

SECTION 16. Said section 19 of said chapter 151, as so appearing, is hereby further

amended by striking out, in lines 28 to 31, inclusive, the words "to be punished by a fine of not less than fifty nor more than two hundred dollars or by imprisonment for not less than ten nor more than ninety days, or by both such fine and imprisonment" and inserting in place thereof the following words:- have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C of chapter 149.

SECTION 17. Said section 19 of said chapter 151, as so appearing, is hereby further amended by striking out, in lines 43 to 45, inclusive, the words "be punished by a fine of not less than twenty-five nor more than one hundred dollars" and inserting in place thereof the following words:- have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C of chapter 149.

SECTION 18. Said section 19 of said chapter 151, as so appearing, is hereby further amended by striking out, in lines 63 to 65, inclusive, the words "be punished by a fine of not less than one hundred dollars or by imprisonment for not less than ten nor more than ninety days, or by both such fine and imprisonment" and inserting in place thereof the following words:- have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C of chapter 149.

SECTION 19. Said section 19 of said chapter 151, as so appearing, is hereby further amended by striking out, in lines 72 to 75, inclusive, the words "be punished by a fine of not less than fifty nor more than one thousand dollars, or imprisonment for not less than ten nor more than ninety days, or by both such fine and imprisonment" and inserting in place thereof the following words:- have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C of chapter 149.

SECTION 20. A special commission is hereby established to consider, study, and determine the scope, definition, and cost implications of the terms "gravel and fill" as such terms appear in section 27 of chapter 149 of the General Laws. In the cause of its study and deliberation, said commission shall consider the need for clarity of the terms and provisions of sections 26 to 27H, inclusive, of said chapter 149 relating to the terms "gravel and fill" as such terms appear in said sections. Said commission shall have five members and shall consist of the chairmen of the joint committees on commerce and labor, who shall serve as co-chairmen of said commission, the secretary of transportation and construction or his designee, one representative of the International Brotherhood of Teamsters, and one representative of the Construction Industries of Massachusetts. Said commission shall report its findings on the scope, definition, and cost implications of the terms "gravel and fill" as those terms appear in said section 27 of said chapter 149, together with drafts of legislation it recommends to the house and senate committees on ways and means and to the joint committee on commerce and labor no later than December 1, 1998.

SECTION 21. The provisions of sections 5 to 19, inclusive, and section 20 of this act shall not apply to public works projects bid on or before 90 days after the effective date of this act.

Approved August 7, 1998.

Chapter 237. AN ACT RELATIVE TO FREEDOM OF EMPLOYMENT IN THE BROADCASTING INDUSTRY.

Be it enacted, etc., as follows:

SECTION 1. Chapter 149 of the General Laws is hereby amended by adding the following section:-

Section 186. Any contract or agreement which creates or establishes the terms of employment for an employee or individual in the broadcasting industry, including, television stations, television networks, radio stations, radio networks, or any entities affiliated with the foregoing, and which restricts the right of such employee or individual to obtain employment in a specified geographic area for a specified period of time after termination of employment of the employee by the employer or by termination of the employment relationship by mutual agreement of the employer and the employee or by termination of the employment relationship by the expiration of the contract or agreement, shall be void and unenforceable with respect to such provision. Whoever violates the provisions of this section shall be liable for reasonable attorneys' fees and costs associated with litigation of an affected employee or individual.

SECTION 2. This act shall apply to contracts entered into on or after its effective date.

Approved August 7, 1998.

Chapter 238. AN ACT PROHIBITING THE DISCLOSURE OF THE NAMES AND TELEPHONE NUMBERS OF DEPARTMENT OF SOCIAL SERVICE PERSONNEL.

Be it enacted, etc., as follows:

Section 10 of chapter 66 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "services", in line 65, the following words:- , department of social services.

Approved August 7, 1998.

Chapter 239. AN ACT FURTHER REGULATING THE MASSACHUSETTS HOUSING FINANCE AGENCY.

Be it enacted, etc., as follows:

SECTION 1. Paragraph (g) of section 1 of chapter 708 of the acts of 1966, as amended by section 1 of chapter 855 of the acts of 1970, is hereby further amended by inserting after the word "rehabilitated", in line 2, the following words:- , refinanced for continued use.

SECTION 2. Paragraph (*h*) of said section 1 of said chapter 708, as amended by section 2 of chapter 264 of the acts of 1982, is hereby further amended by striking out, in line 5, the word "twenty-five" and inserting in place thereof the following figure:- 30.

SECTION 3. Said section 1 of said chapter 708 is hereby further amended by adding the following two paragraphs:-

(*m*) "Community based residence", a residential unit constructed or rehabilitated to accommodate clients under the care, treatment or supervision of an agency of the commonwealth including, but not limited to, the departments of mental health, mental retardation and public health or any successors thereto.

(*n*) "Elderly housing", housing that is specifically intended, designed or operated to assist persons 62 years of age or older or otherwise designated as housing for older persons pursuant to the provisions of the Federal Fair Housing Act, 42 USC 3601, et seq.

SECTION 4. Section 2 of said chapter 708, as most recently amended by section 32 of chapter 722 of the acts of 1989, is hereby further amended by adding the following paragraph:-

It is hereby further found that there is insufficient housing which is accessible to and suited for physically and mentally handicapped persons who are otherwise capable of living in community settings. Persons of low and moderate income frequently do not have the resources to finance the acquisition or construction of new housing or the necessary accommodations or modifications and adaptations of existing housing and there is a shortage of decent, safe and sanitary housing that offers the necessary supportive services for persons with mental disabilities or other special needs. Such shortage of decent, safe and sanitary housing results in the continued hospitalization or institutionalization of a number of mentally disabled and other persons who desire to and can live independently in the community and who will benefit substantially from placement in a private, community based residence. Private enterprise, without the assistance contemplated by this act, cannot achieve the modification or adaptation of existing housing into community based residences nor the construction of community based residences. To address such problems, the Massachusetts Housing Finance Agency shall have the power to: (*i*) raise funds from private investors in order to make low interest rate funds available for the acquisition, construction, adaptation and rehabilitation of housing designed to meet the needs of physically or mentally handicapped individuals and their families, (*ii*) insure residential or construction or permanent or rehabilitation loans for community based residences; and (*iii*) provide technical assistance to low income persons and families applying for residential loans and to sponsors of community based residences.

SECTION 5. Paragraph (*a*) of section 4 of said chapter 708 is hereby amended by inserting after the word "acquisition", inserted by section 2 of chapter 679 of the acts of 1989, the following words:- , continued use.

SECTION 6. Said section 4 of said chapter 708 is hereby further amended by adding the following paragraph:-

(*z*) Notwithstanding any provision herein to the contrary, make loans for the purpose

of financing the construction or acquisition and rehabilitation of community based residences. In conjunction therewith, the MHFA is authorized to make low interest loans including, but not limited to, construction or permanent loans for community based residences. The MHFA shall publish regulations governing the making of such loans.

SECTION 7. Section 4A of said chapter 708, as inserted by section 12 of chapter 679 of the acts of 1989, is hereby amended by inserting after the word "housing", in line 4, the following words:- not less than 25 per cent of which is.

SECTION 8. Said section 4A of said chapter 708 is hereby further amended by adding the following two paragraphs:-

(o) Establish a lead paint abatement loan program throughout the commonwealth in consultation with the department of public health or such agency as the governor shall designate, the purpose of which shall be to assist residential property owners in financing the abatement and containment of lead paint hazards. Not less than one-half of funds allocated for this program shall be distributed to agencies and organizations serving high risk areas and communities designated by the department of public health or by such agency as the governor shall designate.

(p) Administer on behalf of any agency of the commonwealth a program of rehabilitation or home improvement for the benefit of low and moderate income persons or families.

SECTION 9. Paragraph (b) of section 5 of said chapter 708, as amended by section 3 of chapter 632 of the acts of 1979, is hereby further amended by inserting after the word "profit", in line 4, the following words:- and federal, state or local agencies or departments.

SECTION 10. Paragraph (g) of said section 5 of said chapter 708 is hereby amended by striking out clause (1), as appearing in section 1 of chapter 546 of the acts of 1982, and inserting in place thereof the following clause:- (1) that low income persons and families can afford the adjusted rentals, including the provision of heat, electricity and hot water, set for 20 per cent of the units in the project on the basis of the use of not more than 30 per cent of the qualifying income for such housing or such greater portion of their annual income as required by laws, regulations or guidelines applicable to any affordable housing program of an agency of the United States government, or the commonwealth or any agency thereof, to be used in connection with the proposed project;

SECTION 11. Paragraph (i) of said section 5 of said chapter 708, as amended by section 18 of chapter 679 of the acts of 1989, is hereby further amended by adding the following two sentences:- The MHFA and its successors and assigns also may release a disposition agreement at any time if the MHFA determines that such release will preserve affordable housing that would otherwise be converted to market rate housing or if it otherwise finds that such release will further the specific purposes of this act. Notwithstanding the foregoing, the provisions of this section shall not apply to mortgages purchased by the MHFA from the United States or any agency thereof.

SECTION 12. Paragraph (a) of section 6 of said chapter 708, as most recently amended by section 22 of chapter 574 of the acts of 1983, is hereby further amended by striking out clause (3) and inserting in place thereof the following clause:- (3) adjusted rental,

which is the below market rate rental, further adjusted downward so that such adjusted rental, including the provision of heat, electricity and hot water, will be affordable by low-income persons and families without such persons and families having to expend more than 30 per cent of the maximum income amount which would make them eligible for units owned or leased by the housing authority in the city or town in which the development or the residence is located or, in the event that there is no housing authority, no more than 30 per cent of that amount which is established as the maximum for eligibility for low-rent units by the department of housing and community development. In the event, however, that housing is provided under an affordable housing program of an agency of the United States government, or the commonwealth or any agency thereof, the adjusted rental may exceed 30 per cent of the income limits set forth above, provided it shall not exceed the maximum percentage allowed by the applicable laws, regulations, or guidelines of such affordable housing program.

SECTION 13. The fourth sentence of section 7 of said chapter 708, as most recently amended by section 4 of chapter 259 of the acts of 1985, is hereby further amended by striking out, in lines 10 and 11, the words "community affairs" and inserting in place thereof the following words:- housing and community development.

SECTION 14. Paragraph (b) of section 8 of said chapter 708 is hereby amended by striking out the last sentence, as most recently amended by chapter 366 of the acts of 1992, and inserting in place thereof the following sentence:- The aggregate principal amount of notes and bonds of the MHFA issued to make loans pursuant to section 5A outstanding at any one time shall not exceed the sum of \$2,200,000,000.

SECTION 15. Said section 8 of said chapter 708 is hereby further amended by striking out paragraph (f), added by section 14 of chapter 264 of the acts of 1982.

SECTION 16. Section 9C of said chapter 708, as most recently amended by section 7 of chapter 259 of the acts of 1985, is hereby further amended by striking out the last paragraph.

SECTION 17. The first paragraph of section 10 of said chapter 708 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- In the discretion of the MHFA bonds and notes issued by it shall be secured by a trust agreement by and between the MHFA and a trustee, which may be any trust company or bank doing business within the commonwealth having the powers of a trust company.

SECTION 18. The second paragraph of said section 10 of said chapter 708 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- It shall be lawful for any bank or trust company doing business within the commonwealth to act as depository of the proceeds of bonds and notes or of revenues and to furnish such indemnifying bonds or to pledge such securities as may be required by the MHFA.

Approved August 7, 1998.

Chapter 240. AN ACT AUTHORIZING THE TOWN OF HARDWICK TO CONVEY LAND TO THE HARDWICK FARMERS CO-OPERATIVE EXCHANGE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 16 of chapter 30B of the General Laws or any other general or special law or by-law to the contrary, the town of Hardwick, acting by and through its board of selectmen, may convey to the Hardwick Farmers Co-operative Exchange, a Massachusetts corporation, for such consideration, and on such other terms and conditions as the selectmen may determine, a portion of the land described in a deed from Myron N. Ayres to the town of Hardwick dated February 22, 1911 and recorded with the Worcester district registry of deeds in Book 1957, Page 469 and known as the Paige House, subject to preservation restrictions to be established by said town.

SECTION 2. This act shall take effect upon its passage.

Approved August 7, 1998.

Chapter 241. AN ACT AUTHORIZING THE CITY OF MARLBOROUGH TO LEASE A CERTAIN PARCEL OF RECREATIONAL LAND.

Be it enacted, etc., as follows:

The city of Marlborough is hereby authorized to lease a certain parcel of municipal land located in said city, as described in a quitclaim deed recorded in the southern district registry of deeds for Middlesex county in Book 15598 and Page 517, containing 19.244 acres, more or less, and known as the Jericho Hill Ski Facility for recreational use.

Approved August 7, 1998.

Chapter 242. AN ACT RELATIVE TO THE CONDOMINIUM AND TIME-SHARE LAWS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to enable condominium associations to further develop condominiums and otherwise to create or designate certain interests therein to improve the governance of condominiums, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. It is hereby found and declared by the general court that a serious public emergency exists within the commonwealth with respect to a shortage of affordable

housing stock based upon the expiration of the right to add additional condominium units and land in numerous condominiums created pursuant to chapter 183A of the General Laws and with respect to the need to clarify and further establish the rights and powers of the organization of unit owners to create or designate easements, limited common areas and other rights in condominiums.

SECTION 2. Section 28A of chapter 183 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "assessments", in line 15, the following words:- or condominium common expense assessment, including legal fees.

SECTION 3. Section 1 of chapter 183A of the General Laws, as so appearing, is hereby amended by striking out the definition of "Limited common areas and facilities" and inserting in place thereof the following definition:-

"Limited common areas and facilities", a portion of the common areas and facilities either (i) described in the master deed or (ii) granted or assigned in accordance with the provisions of this chapter by the governing body of the organization of unit owners, for the exclusive use of one or more but fewer than all of the units.

SECTION 4. Section 4 of said chapter 183A, as so appearing, is hereby amended by striking out subsection (5) and inserting in place thereof the following subsection:-

(5) The organization of unit owners shall provide to each mortgagee holding a recorded mortgage upon a unit, written notice of the organization's name and mailing address. The organization shall provide written notice to each such mortgagee of any changes in the name or mailing address previously provided by the organization. Each mortgagee holding a recorded mortgage upon a unit shall give written notice of the mortgagee's name and mailing address to the organization of unit owners. Thereafter, each mortgagee shall provide written notice to the organization of any changes in said name and address for the purpose of providing notices to the mortgagee under this chapter or under the provisions of the loan documents or condominium documents. The organization and mortgagees may rely in good faith upon the most recent notice of name and address for the purpose of providing notices to the organization and mortgagees, as the case may be, under this chapter or under the provisions of the loan documents or condominium documents. In addition, any first mortgagee may at any time give notice to both the unit owner and the organization of unit owners of its desire to receive notice regarding the granting of an easement or other interest or the granting or designation of a limited common area, or the taking of other action by the organization of unit owners all as provided for in paragraph (2) of subsection (b) of section 5. Notice to the governing body of the organization of unit owners shall be deemed notice to the organization of unit owners. Any notices sent in writing to a mortgagee or to the governing body of the organization of unit owners, as listed in the most recent notice of name and address, if relied upon in good faith, shall be deemed sufficiently given, provided that the organization or mortgagee, as the case may be, has given notice as required by this chapter.

SECTION 5. Section 5 of said chapter 183A, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b)(1) The percentage of the undivided interest of each unit owner in the common areas and facilities as expressed in the master deed shall not be altered without the consent of all unit owners whose percentage of the undivided interest is materially affected, expressed in an amendment to the master deed duly recorded; provided, however, that the acceptance and recording of the unit deed shall constitute consent by the grantee to the addition of subsequent units or land or both to the condominium and consent to the reduction of the undivided interest of the unit owner if the master deed at the time of the recording of the unit deed provided for the addition of units or land and made possible an accurate determination of the alteration of each unit's undivided interest that would result therefrom. The percentage of the undivided interest in the common areas and facilities shall not be separated from the unit to which it appertains, and shall be deemed to be conveyed or encumbered with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. The granting of an easement by the organization of unit owners, or the designation or allocation by the organization of unit owners of limited common areas and facilities, or the withdrawal of a portion of the common areas and facilities, all as provided for in this subsection, shall not be deemed to affect or alter the undivided interest of any unit owner.

(2) The organization of unit owners, acting by and through its governing body, shall have the power and authority, as attorney in fact on behalf of all unit owners from time to time owning units in the condominium, except as provided in this subsection, to:

(i) Grant, modify and amend easements through, over and under the common areas and facilities, and to accept easements benefiting the condominium, and portions thereof, and its unit owners, including, without limitation, easements for public or private utility purposes, as the governing body of the organization shall deem appropriate; provided, however, that the consent of at least 51 per cent of the number of all mortgagees holding first mortgages on units within the condominium who have requested to be notified thereof, as provided in subsection (5) of section 4 is first obtained; and provided, further, that at the time of creation of such easement and at the time of modification or amendment of any such easement, such easement and any such modification or amendment shall not be inconsistent with the peaceful and lawful use and enjoyment of the common condominium property by the owners thereof. Such grant, modification, amendment, or acceptance shall be effective on the thirtieth day following the recording, within the chain of title of the master deed, of an instrument duly executed by the governing body of the organization of unit owners setting forth the grant, modification, amendment or acceptance with specificity, and reciting compliance with the requirements of this subsection.

(ii) Grant to or designate for any unit owner the right to use, whether exclusively or in common with other unit owners, any limited common area and facility, whether or not provided for in the master deed, upon such terms as deemed appropriate by the governing body of the organization of unit owners; provided, however, that consent has been obtained from (a) all owners and first mortgagees of units shown on the recorded condominium plans as immediately adjoining the limited common area or facility so designated and (b) 51 per

cent of the number of all mortgagees holding first mortgages on units within the condominium who have given notice of their desire to be notified thereof as provided in subsection (5) of section 4. In such case as the limited common area or facility shall directly and substantially impede access to any unit, the consent of the unit owner of such unit and its first mortgagee, if such mortgagee has requested notice as aforesaid, shall also be required. Such grant or designation, and the acceptance thereof, shall be effective 30 days following the recording, within the chain of title of the master deed or of the declaration of trust or by-laws, of an instrument duly executed by the governing body of the organization of unit owners and the grantee or designee and his mortgagees, which instrument shall accurately designate, depict and describe the area affected and the rights granted and designated, and shall recite compliance with the requirements of this subsection. Such grant or designation shall be considered an appurtenance to the subject unit and shall be deemed to be conveyed or encumbered with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

(iii) Extend, revive or grant rights to develop the condominium, including the right to add additional units or land to the condominium; provided, however, that the rights to add additional units are set forth in or specifically authorized by the master deed, and, notwithstanding any provision in section 19 to the contrary, withdraw any portion of the common area of the condominium upon which, at the time of said withdrawal, no unit has been added to the condominium in accordance with the master deed; and provided further, that said withdrawal is not specifically prohibited by the master deed. Any action taken pursuant to this subparagraph shall be taken upon such terms and conditions as the organization of unit owners may deem appropriate, including the method or formula by which the percentage interest of each unit is to be set in accordance with subsection (a) of section 5, or in accordance with another method which the organization of unit owners reasonably determines is fair and equitable under the circumstances, following such extension, revival, grant, addition or withdrawal if not specified in the master deed; provided further, that the consent thereto, including the terms and conditions thereof, of not less than 75 per cent of owners of units within the condominium, or such lower percentage, if any, as the master deed may provide, and 51 per cent of the number of all mortgagees holding first mortgages on units within the condominium who have given notice of their desire to be notified thereof as provided in subsection (5) of section 4 is obtained for such extension, revival, grant, addition or withdrawal. Any action taken pursuant to this subparagraph may be taken even if the time period for adding land, units or common facilities, or for withdrawal has expired. The withdrawal of common areas pursuant to this subparagraph shall not be deemed to affect the percentage interest of each unit. Such extension, revival, grant, addition or withdrawal shall be effective 30 days after the recording, within the chain of title of the master deed or of the declaration of trust or by-laws, of an instrument duly executed by the organization of unit owners setting forth accurately the extension, revival, grant, addition or withdrawal, and reciting compliance with the requirements of this subsection; and

(iv) Sell, convey, lease or mortgage any rights or interest created as a result of exer-

cise of rights established under subparagraph (iii); provided, however, that any proceeds obtained by the organization of unit owners as a result of such sale, conveyance, lease, or mortgage may be paid by the organization of unit owners for common expenses of the condominium, and otherwise shall be distributed in accordance with subparagraph (iii) of subsection (a) of section (6), or in accordance with another method which the organization of unit owners reasonably determines is fair and equitable under the circumstances. The provisions of paragraph (2) shall not affect the rights reserved by the declarant in the master deed except to the extent such rights have expired.

Any consent required by this subsection shall be deemed to be given if, upon written notice by certified and first class mail, provided by the governing body of the organization of unit owners of a proposed action hereunder, to the unit owner or mortgagee whose consent is required, such unit owner or mortgagee fails to object within 60 days of the date of mailing of such notice. The consent of each mortgagee, to the extent required hereunder, shall be counted separately as to each unit upon which such mortgagee holds a mortgage, based upon one vote for each unit. In no event may a consent required of a mortgagee under this subsection be withheld unless the interests of the mortgagee would be materially impaired by the action proposed. In the event of any conflict between the provisions of this subsection and of the master deed, trust or by-laws or other governing documents of the condominium, this subsection shall control. Any third party interested in title to said condominium or condominium unit or units may conclusively rely upon the recitation of compliance contained within any instrument recorded pursuant to this subsection.

SECTION 6. Subsection (c) of section 6 of said chapter 183A, as so appearing, is hereby amended by inserting after the third paragraph the following two paragraphs:-

The organization of unit owners shall take no further action to enforce its priority liens against a particular unit for common expenses if the first mortgagee agrees in writing that a priority lien exists without the requirement of instituting an action, as to such enforcement and pays, within 60 days of said writing, the following prescribed amounts: (1) so much of any delinquent assessments on that unit for regularly recurring budgeted common expenses over a period for six months immediately preceding the notice of delinquency that would constitute a priority amount if an action had been commenced on the date the organization gives its delinquency notice to the mortgagee; (2) costs and reasonable attorney's fees incurred by the organization at the time of said writing by the first mortgagee to collect outstanding common expenses, including, but not limited to, costs and fees to ascertain the first mortgagee's identity, examine title, and prepare and send to the unit owner and mortgagee the notices referred to in this paragraph; and to pay within 30 days of their due date; (3) all future common expenses, and special assessments other than special assessments for improvements made pursuant to section 18, assessed against that unit from the date of said notice until such time as the mortgagee's mortgage is foreclosed or otherwise no longer encumbers the unit. The amount which the first mortgagee, if it so elects, would be required to pay to cause the organization not to proceed to enforce its priority liens shall not include any amounts attributable to late charges, fines, penalties, and interest assessed

by the organization of unit owners and shall only include amounts attributable to special assessments due and payable after the giving of the delinquency notice pursuant to this paragraph, and then only to the extent the special assessment is not made with respect to any improvement authorized under section 18. If the amounts described in clauses (1) and (2) are not received within said 60 day period, or if the amount of any future assessments under clause (3) is not received within 30 days of their due date, the organization may proceed to take further action to enforce its liens without voiding the first mortgagee's obligation to pay as provided in this subsection. The agreement by the first mortgagee to make payments in the amounts and for the duration specified in this paragraph shall be binding upon its successors and assigns and the successful bidder at any foreclosure but no such successor, assign, bidder or purchaser shall have any liability by virtue of the first mortgagee's undertaking pursuant to this paragraph for any amount first arising, assessed or becoming due after the mortgage is foreclosed or otherwise no longer encumbers the unit. The first mortgagee shall not be liable for the amounts described in clauses (1), (2) and (3) which arise after the first mortgagee ceases to have an interest in the unit. Such amounts shall then become the obligation of the successors and assigns of the first mortgagee.

Within ten days after receipt of the written request of the first mortgagee, the organization of unit owners shall provide a written statement in reasonable detail of the actual dollar amounts the first mortgagee would be required to pay, if it so elected, to cause the organization of unit owners not to take further action to enforce its priority liens against the unit as provided in this section. The first mortgagee shall have 14 days following the mailing of said written statement to enter into the written agreement provided for in the previous paragraph. Unless the organization of unit owners has notice of a first mortgagee's foreclosure sale actually scheduled within 30 days, the organization of unit owners shall take no further action to enforce its priority liens against a particular unit for common expenses for a period of 24 days from the receipt of the written request by the first mortgagee or 14 days following mailing of the written statement by the organization of unit owners, whichever is less. The failure of the organization of unit owners to send the written statement to the first mortgagee, as described above, shall not affect the priority lien of the organization of unit owners for up to six months' common expenses, but the priority amount shall not include any costs or attorneys' fees incurred to collect or enforce the liens.

SECTION 7. Subsection (d) of said section 6 of said chapter 183A, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The statement shall be furnished within ten business days after receipt of a written request, upon payment of a reasonable fee, and shall be binding on the organization of unit owners, the governing body of the organization of unit owners, and every unit owner; provided, however, that no fee shall be required of any mortgagee, in connection with a foreclosure of a mortgage, who has given the organization notice of its intention to foreclose a mortgage upon the unit.

SECTION 8. Section 5A of chapter 254 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words "one hundred and eighty-three A" and

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inserting in place thereof the following words:- 183A or under section 29 of chapter 183B.

SECTION 9. Said section 5A of said chapter 254, as so appearing, is hereby further amended by striking out, in line 15, the word "Such" and inserting in place thereof the following words:- For a lien under chapter 183A, such.

SECTION 10. Said section 5A of said chapter 254, as so appearing, is hereby further amended by inserting after the second paragraph the following paragraph:-

For a lien under chapter 183B, such form shall be printed in substantially the following form:

SALE OF REAL ESTATE
UNDER GLM 183B:29

By virtue of a Judgment and Order of the _____ Court (docket no, _____ in favor of _____ against _____ establishing a lien pursuant to GLM 183B:29 on the time-share known as _____ of the _____ for the purpose of satisfying such lien, the time-share will be sold at Public Auction at ____ o'clock __.M. on the _____ day of _____ A.D. 19__ at _____. The premises to be sold are more particularly described as follows:

Description: (Describe premises exactly as in the deed, including all references to title, restrictions, encumbrances, etc.)

Terms of sale: (State the amount, if any, to be paid in cash by the purchaser at the time and place of the sale, and the time or times for payment of the balance or the whole as the case may be.)

Other terms to be announced at the sale.

(Signed)_____

Lien Holder

_____, 19

SECTION 11. Except for section 6, this act shall apply to all master deeds, and amendments thereto, without regard to whether such master deed or amendment was recorded before, on or after the effective date of this act. The provisions of said section 6 shall apply only to priority liens and assessments first arising 90 days after the effective date of this act.

Approved August 7, 1998.

Chapter 243. AN ACT PROVIDING FOR HEARING SCREENING OF NEWBORNS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 32A of the General Laws is hereby amended by inserting after section 17E, inserted by section 1 of chapter 140 of the acts of 1998, the following section:-

Section 17F. The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission coverage for the cost of a newborn hearing screening test to be performed before the newborn infant is discharged from the hospital or birthing center to the care of the parent or guardian or as provided by regulations of the department of public health. Nothing contained in this section shall be construed to abrogate any obligation to provide coverage for a hearing screening test or any other hearing screening test or audiological diagnostic procedure pursuant to any law or regulation of the commonwealth or of the United States or under any of the terms or provisions of any policy, contract or certification.

SECTION 2. Chapter 111 of the General Laws is hereby amended by striking out section 67F, as appearing in the 1996 Official Edition, and inserting in place thereof the following section:-

Section 67F. For the purposes of this section, the words "newborn infant" shall mean an infant under three months of age, and the words "hearing screening test" shall mean a test to detect hearing thresholds of 30 decibels or greater in either ear in the speech frequency range.

A hearing screening test shall be performed on all newborn infants in the commonwealth in the birthing hospital or birthing center, or in the hospital from which the newborn infant is discharged to home. Such test shall be performed before the newborn infant is discharged from the birthing center or hospital to the care of the parent or guardian, or as the department may by regulation provide; provided, however, that such test shall not be performed if the parents or guardian of the newborn infant object to the test based upon the sincerely held religious beliefs of the parent or guardian. The hospital or birthing center shall inform a parent or guardian of the newborn infant and the newborn infant's primary care physician of such infant's failure to pass the test, or if such infant was not successfully tested. Such notification shall occur prior to discharge whenever possible, and in any case no later than ten days following discharge. The hospital or birthing center so informing the parent and physician shall provide information regarding appropriate follow-up for a screening failure or a missed screening.

The cost of providing the newborn hearing screening test shall be a covered benefit reimbursable by all health insurers, except for supplemental policies which only provide coverage for specific diseases, hospital indemnity, Medicare supplement, or other supplemental policies. In the absence of a third party payer, the charges for the newborn hearing screening test shall be paid by the commonwealth.

A newborn infant whose hearing screening test result indicates the need for diagnostic audiological examination shall be offered such examination at a center approved by the department. Such centers shall maintain suitable audiological support, medical and education referral practices in order to receive such approval. If no third party payer is liable for such cost, the commonwealth shall make reimbursement for the cost of such follow-up diagnostic examinations.

There is hereby established an advisory committee for a statewide newborn hearing

screening program consisting of the following members to be appointed by the commissioner: a representative of the health insurance industry; a pediatrician or family practitioner; an otolaryngologist; a neonatologist; a nurse representing newborn nurseries; two audiologists; a teacher of the deaf and hard of hearing; a representative of the commonwealth's early intervention program; a representative of the department; two parents of children who are deaf or hard of hearing; and one deaf and one hard of hearing adult to be designated by the Massachusetts commission for the deaf and hard of hearing. The advisory committee shall advise the department regarding proposed regulations and the validity and cost of screening procedures, and shall recommend standards for appropriate screening methodology based on updated technological developments, methods of recording results and follow-up from the screening program, and methods to facilitate interaction of professions and agencies which participate in follow-up. Members of the advisory committee shall serve without compensation. The advisory committee shall be provided support services by the department.

The advisory committee shall elect a chairman from among its members.

Each hospital and birthing center which provides newborn infant care shall submit to the department for its approval a protocol for newborn hearing screening, including training and supervision of personnel by a licensed audiologist, test protocol, follow-up procedures, quality assurance and program statistics, at the onset of the program, following one full year of operation, prior to any significant changes in protocol, and at intervals specified by the department.

Notwithstanding the requirements of this section for the provision of newborn hearing screening tests, if a birthing center does not have the equipment or ability to conduct such a test, the newborn infant shall be referred to a hospital or birthing center approved by the department for such test in accordance with the provisions of this section.

The department shall promulgate regulations to implement the newborn hearing screening program.

SECTION 3. Chapter 118E of the General Laws is hereby amended by inserting after section 10A the following section:-

Section 10B. The division shall provide coverage for the cost of a newborn hearing screening test to be performed before the newborn infant is discharged from the hospital or birthing center to the care of the parent or guardian or as provided by regulations of the department of public health. Nothing contained in this section shall be construed to abrogate any obligation to provide coverage for a hearing screening test or any other hearing screening test or audiological diagnostic procedure pursuant to any law or regulation of the commonwealth or of the United States or under the terms or provisions of any policy, contract or certificate.

SECTION 4. Section 47C of chapter 175 of the General Laws is hereby amended by adding the following paragraph:-

In addition to such benefits, said policy shall provide coverage for the cost of a newborn hearing screening test to be performed before the newborn infant is discharged from

the hospital or birthing center to the care of the parent or guardian or as provided by regulations of the department of public health. Nothing contained in this paragraph shall be construed to abrogate any obligation to provide coverage for a hearing screening test or any other hearing screening test or audiological diagnostic procedure pursuant to any law or regulation of the commonwealth or of the United States or under the terms or provisions of any policy or contract.

SECTION 5. Section 8B of chapter 176A of the General Laws is hereby amended by adding the following paragraph:-

In addition to such benefits, any contract as described in this section, shall provide coverage for the cost of a newborn hearing screening test to be performed before the newborn infant is discharged from the hospital or birthing center to the care of the parent or guardian or as provided by regulations of the department of public health. Nothing contained in this paragraph shall be construed to abrogate any obligation to provide coverage for a hearing screening test or any other hearing screening test or audiological diagnostic procedure pursuant to any law or regulation of the commonwealth or of the United States or under the terms or provisions of any contract or certificate.

SECTION 6. Section 4C of chapter 176B of the General Laws is hereby amended by adding the following paragraph:-

In addition to such benefits, any subscription certificate, as described in this section, shall provide coverage for the cost of a newborn hearing screening test to be performed before the newborn infant is discharged from the hospital or birthing center to the care of the parent or guardian or as provided by regulations of the department of public health. Nothing contained in this paragraph shall be construed to abrogate any other obligation to provide coverage for a hearing screening test or any other hearing screening test or audiological diagnostic procedure pursuant to any law of the commonwealth or of the United States or under the terms or provisions of any contract or certificate.

SECTION 7. Chapter 176G of the General Laws is hereby amended by inserting after section 4J, inserted by section 5 of chapter 140 of the acts of 1998, the following section:-

Section 4K. A health maintenance contract shall provide coverage for a newborn hearing screening test to be performed before the newborn infant is discharged from the hospital or birthing center to the care of the parent or guardian, pursuant to regulations of the department of public health. Payment to physician, hospital or other provider for the costs of said test may be pursuant to the terms of a negotiated contract. Nothing contained in this section shall be construed to abrogate any other obligation to provide coverage for a hearing screening test or any other hearing screening test or audiological diagnostic procedure pursuant to any law of the commonwealth or of the United States or under the terms or provisions of any contract or certificate.

Approved August 7, 1998.

Chapter 244. AN ACT AUTHORIZING THE COMMISSIONER OF THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT A PERMANENT EASEMENT TO THE TOWN OF HINSDALE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to authorize the division of capital planning and operations to convey a certain permanent easement across commonwealth property in the town of Hinsdale, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital planning and operations, in consultation with the department of environmental management, may notwithstanding the provisions of chapter 7 of the General Laws, convey a permanent easement to the town of Hinsdale for the purposes of constructing, operating, maintaining, repairing, and replacing a municipal sewer line over a certain parcel of commonwealth land located in said town currently under the care and control of said department, which parcel is shown on deeds recorded in Berkshire middle district registry of deeds in book 868, pages 506 and 507, subject to such terms and conditions as said commissioner may prescribe. The exact boundaries of said easement shall be determined by said commissioner, based on a survey.

SECTION 2. The town of Hinsdale shall be responsible for all costs for the preparation of the easement, surveys and other expenses relating to the transfer of the easement over said parcel, and for any costs and liabilities and expenses of any nature and kind for the use and operation of the easement area and for the construction, operation, maintenance, repair and replacement of the sewer line. In the event said easement ceases to be used at any time for the purposes contained herein; or is used for any purpose other than the purpose stated herein, said easement, upon notice by the commissioner of the division of capital planning and operations, shall terminate and revert to the care and control of the commonwealth through said division for use by the department of environmental management, and any further disposition of said parcel shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws. In the event of such reverter, said town of Hinsdale shall remain responsible for all liabilities associated with the sewer line, and for all liabilities associated with the use and operation of the easement area prior to its reversion.

Approved August 7, 1998.

Chapter 245. AN ACT AUTHORIZING THE SOUTH MIDDLESEX REGIONAL VOCATIONAL TECHNICAL SCHOOL TO PAY CERTAIN HEALTH INSURANCE PREMIUMS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 625 of the acts of 1982 is hereby repealed.

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SECTION 2. The South Middlesex Regional Vocational Technical School District, acting by and through its school committee, may enter into an agreement with the South Middlesex Regional Vocational Technical Teachers Association, which agreement may become a part of the collective bargaining agreement between said committee and said association, that said South Middlesex Regional Vocational Technical School District may pay 50 per cent of the premium actually paid for group health insurance by teachers who have retired directly from said South Middlesex Regional Vocational Technical School District, for the teacher and for the spouse and the surviving spouse of the said teacher until the remarriage or death of such surviving spouse, provided that said teacher is receiving a pension or annuity allowance from the teachers' retirement system, has attained the age of 55, and has served for a minimum of ten years in said South Middlesex Regional Vocational Technical School District.

SECTION 3. This act shall take effect upon its passage.

Approved August 7, 1998.

**Chapter 246. AN ACT RELATIVE TO MOTOR VEHICLE LIABILITY POLICIES
FOR ANTIQUE AUTOMOBILES.**

Be it enacted, etc., as follows:

Chapter 175 of the General Laws is hereby amended by inserting after section 113T the following section:-

Section 113U. Insurance companies undertaking to issue motor vehicle liability policies or motor vehicle liability bonds, as defined in section 34A of chapter 90, may issue and deliver policies insuring antique motor cars, as defined in section 1 of said chapter 90. Said antique motor car insurance policies shall be exempt from the provisions of sections 113B and 113H.

Approved August 7, 1998.

**Chapter 247. AN ACT RELATIVE TO THE MEMBERSHIP OF THE
RETIREMENT BOARD OF THE TOWN OF BROOKLINE.**

Be it enacted, etc., as follows:

SECTION 1. The retirement board of the town of Brookline shall be subject to paragraph (b) of subdivision (4) of section 20 of chapter 32 of the General Laws.

SECTION 2. This act shall take effect upon its passage.

Approved August 7, 1998.

**Chapter 248. AN ACT RELATIVE TO CERTAIN LICENSES TO EXHIBIT BY
MOVIE THEATERS.**

Be it enacted, etc., as follows:

SECTION 1. Section 4 of chapter 136 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out paragraph (8) and inserting in place thereof the following two paragraphs:-

(8) Sections 2 and 3 and this section shall not apply to an athletic game or contest for which a charge in the form of the payment of money or other valuable consideration is made for the privilege of being present thereat, conducted, presented or exhibited on Sunday prior to 1 o'clock antemeridian; provided, however, the said athletic game or contest was commenced before the hour of 9 o'clock postmeridian on Saturday and it was necessary to continue said game after midnight on Saturday in order to complete the game.

(8A) Sections 2 and 3 and this section shall not apply to the exhibition of motion pictures by a movie theater, including any drive-in theater, licensed under the provisions of section 181 of chapter 140.

SECTION 2. The first paragraph of section 181 of chapter 140 of the General Laws, as so appearing, is hereby amended by adding the following two sentences:- Notwithstanding the limitations of this paragraph, a license granted to a movie theater, including any drive-in theater, for the exhibition of motion pictures shall permit such exhibition seven days per week. The fee for such license shall not exceed the total amounts paid by a licensee for licenses issued in 1997 under this section and section 4 of chapter 136 then in effect; provided, however, that the fee for such license shall not be greater than \$500.

SECTION 3. Section 183A of said chapter 140, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

The provisions of this section shall be applicable seven days per week; provided, however, that no license under this section shall be granted to permit such activities, except an athletic game or sport, on Sundays or before 1 o'clock in the afternoon, without the written approval of the commissioner of public safety, made in accordance with the provisions of this section, upon written application to said commissioner accompanied by a fee of not more than \$5, or in the case of an annual license by a fee of not more than \$100.

Approved August 7, 1998.

**Chapter 249. AN ACT RELATIVE TO A CERTAIN RETIRED EMPLOYEE OF
THE TOWN OF READING.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the town of Reading is hereby authorized to grant Louis Bacigalupo a superannuation retirement allowance in accordance with chapter 32 of the Gen-

eral Laws equal to 2.1 per cent of either: (i) the average annual rate of regular compensation received by said Louis Bacigalupo during any period of three consecutive years of creditable service for which such rate of compensation was the highest, or (ii) the average annual rate of regular compensation received by said Louis Bacigalupo during the period or periods, whether consecutive or not, constituting his last three years of creditable service preceding retirement, whichever is greater, multiplied by the number of years of creditable service; provided, however, that such superannuation retirement allowance shall be in lieu of and not in addition to any superannuation retirement allowance said Louis Bacigalupo may have been receiving prior to the effective date of this act; provided, further, that such superannuation retirement allowance shall be deemed noncontributory for the purposes of this act.

SECTION 2. This act shall take effect as of January 1, 1998.

Approved August 7, 1998.

Chapter 250. AN ACT RELATIVE TO THE MASSACHUSETTS INDUSTRIAL FINANCE AGENCY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to permit forthwith the Massachusetts Industrial Finance Agency to issue bonds for the benefit of the Essex County Gas Company, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary relating to the issuance of bonds by the Massachusetts Industrial Finance Agency, and without application of the findings otherwise required by clauses (e) and (k) of subsection 2 of section 12 of chapter 40D of the General Laws, the Massachusetts Industrial Finance Agency may issue bonds to finance capital expenditures incurred in connection with the furnishing of gas and related activities for the benefit of the Essex County Gas Company. Any property resulting from such capital expenditures shall constitute an industrial development facility within the meaning of subsection (m) of section 1 of said chapter 40D.

Approved August 7, 1998.

Chapter 251 AN ACT AUTHORIZING THE TOWN OF PRINCETON TO GRANT CERTAIN EASEMENTS TO WORCESTER COUNTY.

Be it enacted, etc., as follows:

SECTION 1. The town of Princeton may grant certain drainage and wetland replication easements over certain conservation land located in said town to the county of

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Worcester. Said easements are shown as D-8, D-10, D-11, D-13, D-15, and WR-1 on the Plan 4572-R entitled "Plan of Hubbardston Road in the town of Princeton, Worcester County Proposed Easements from Town of Princeton to County of Worcester" which is on file in the office of the Worcester county engineering department.

SECTION 2. This act shall take effect upon its passage.

Approved August 7, 1998.

**Chapter 252. AN ACT RELATIVE TO EARLY INTERVENTION PROGRAMS
FOR INJURED PUBLIC EMPLOYEES.**

Be it enacted, etc., as follows:

SECTION 1. Chapter 32 of the General Laws is hereby amended by striking out section 5B, as appearing in the 1996 Official Edition, and inserting in place thereof the following section:-

Section 5B. (a) Every employer in the commonwealth who employs persons who are members of a retirement system established pursuant to the provisions of this chapter shall establish, in consultation with appropriate officials of the governmental unit and representatives of the unions in the governmental unit, an early intervention plan. In the case of members of the teacher's retirement system, the appropriate official of the governmental unit shall be a designee of municipal or regional school committees. Said plan shall be designed to implement programs and procedures that will effectuate the delivery of a coordinated employee assistance program and procedures that will effectuate the delivery of a coordinated employee assistance program for injured members; to provide educational programs designed to encourage workplace safety; and to identify hazards for the employer's attention. The goal of the plan shall be to limit the retirement system's liability for disability benefits by ensuring the continued employment of injured members through medical and vocational rehabilitation, reasonable accommodation of injured workers, and a safer workplace.

(b) The early intervention plan shall be implemented whenever a member has been absent from work for 30 work days or more as the result of a work-related injury, if it is determined by a physician selected by the employee and a physician selected by the employer that the employee's return to work is not imminent; provided, however, that if the two physicians do not agree whether the return to work is imminent, said physicians shall select a third physician who shall make said determination. The physicians shall also determine, whether the member is a candidate for further review pursuant to the employer's early intervention plan. If further review is warranted, the employer shall proceed to assemble an early intervention team which shall consist of a designee of the retirement board who shall not be a member of the retirement board the employer's personnel or human service director or workers compensation agent who shall serve as chair of the team, a representative of the members union or if the member is not represented by a union, a representative of the mem-

ber's choosing, the members treating physician and a rehabilitation specialist designated by the team. The employer shall notify the retirement board whenever an early intervention team is assembled. Said team shall have access to records pertaining to the member's injury to determine the condition of the member. Any records obtained by the team shall be used for the sole purpose of making the determination required by this section and shall not be used for any other purpose relating to the member's employment. Such records shall be exempt from disclosure pursuant to clause Twenty-sixth of section 7 of chapter 4 and chapter 66. No member of the team shall disclose to who is not a member of the team any confidential medical information or other personal information about the member that has been supplied to the team under the provisions of this section. If the employer, upon recommendation of the early intervention team, determines that the member is likely to be unable to perform the essential duties of his job, it shall have the authority to require the member to undergo an assessment to determine whether he would benefit from a medical or vocational rehabilitation program. The determination by an employer as to whether a member is a candidate for further review pursuant to the early intervention plan, the scope of the review by the early intervention team, and the extent of any recommended vocational or rehabilitation program shall be limited to the member's injury which caused the appointment of the early intervention team. Every reasonable effort shall be made to make such determination in an expeditious manner and said determination shall not be arbitrary, capricious or unreasonable. If the member fails to participate in the assessment or required rehabilitation, he shall be deemed to have waived his rights to benefits pursuant to section 6 or 7.

(c) For purposes of designing the rehabilitation program, the early intervention team shall utilize resources available from the employer, the member's collective bargaining representative, the Massachusetts rehabilitation commission, the public employee retirement administration commission, and such other sources as it deems necessary. The early intervention plan shall be reasonable and shall not unduly burden the member with regard to travel and time requirements. The plan shall coordinate with and not duplicate services or treatments available to the employee under chapter 152 or section 100 of chapter 41.

(d) The early intervention team shall monitor the implementation of the rehabilitation plan and shall continue to monitor the member's progress until he is returned to work or is granted a disability retirement pursuant to section 6 or 7.

(e) The employer shall assume responsibility for all costs associated with the assessment and subsequent rehabilitation plan, less any amounts payable under insurance available to the employer or to the member. If the early intervention team determines that the member has failed without good cause to complete the rehabilitation plan designed by the early intervention team, the member shall be deemed to have waived his rights to benefits pursuant to section 7 in connection with the injury for which the rehabilitation was designed.

(f) If, following completion of a rehabilitation plan, the early intervention team determines that the member is able to perform the essential duties of the position in which the member was employed prior to his absence from work, the member shall be returned to work in his former position; provided, however, that nothing in this section shall interfere with said member's right to use sick leave or take other leaves of absence subject to the same

terms and conditions applicable to employees who have not been subject to the requirements of this section; and provided further, that no information obtained by the board or the member's employer as a result of the early intervention process shall be admissible in support of any application for involuntary retirement pursuant to section 6 or 7.

SECTION 2. Subdivision (2) of section 8 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

(a) If, within two years of the date that a member is retired under section 6 or 7, a regional medical panel determines that the retired member is able to perform the essential duties of the position from which he retired, if following the completion of a rehabilitation program required under subdivision (1), a regional medical panel so finds, the member shall be returned to such position and his disability retirement shall be revoked; provided, however, that if the retired member is able to perform the essential duties of a similar job within the same department for which he is qualified, as determined by the department of personnel administration, and such position is vacant, said member shall return to such position; provided, further, that if such position is not vacant, then the last person appointed to that rank or position will be reduced in rank or position and shall be placed at the top of the list to fill such rank or position for a two year period.

If, after two years of the date that a member is retired under section 6 or 7, the regional medical panel determines that the retired member is qualified for and able to perform the essential duties of the position from which he retired or a similar position within the same department, as determined by the personnel administrator, said member shall be returned to said position, provided the position is vacant. If the position has been filled, the member shall be granted a preference for the next available position or similar position for which he is so qualified. When under the provisions of this section, no vacancy exists in the same or similar position he shall continue to receive such retirement allowance until such reinstatement takes place or as a result of the submission of earnings information under section 91A which may require his pension to be reduced or revoked.

SECTION 3. Section 20 of said chapter 32, as most recently amended by section 5 of chapter 3 of the acts of 1997, is hereby further amended by striking out, in line 690, the word "shall" and inserting in place thereof the following word:- may.

Approved August 7, 1998.

Chapter 253. AN ACT DIRECTING THE GREENFIELD RETIREMENT BOARD TO PAY A CERTAIN RETIREMENT BENEFIT TO THE SURVIVING SPOUSE OF FIREFIGHTER KENNETH J. CREIGLE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the

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contrary and for the purpose of promoting the public good, the retirement board of the town of Greenfield is hereby authorized and directed to pay Amy Creigle, the surviving spouse of firefighter Kenneth J. Creigle, of the fire department of said town, an accidental death benefit as provided under the provisions of section 9 of chapter 32 of the General Laws.

SECTION 2. This act shall take effect as of January 30, 1998.

Approved August 7, 1998.

Chapter 254. AN ACT AUTHORIZING THE TOWN OF LYNNFIELD TO CONVEY CERTAIN LAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law, rule or regulation to the contrary but subject to the provisions of sections 26 to 27H, inclusive, of chapter 149 of the General Laws, the town of Lynnfield, acting by and through its board of selectmen is hereby authorized to convey certain parcels of land located in said town to Anthony V. Tiro. Said parcels are shown as lots 33 to 53, 54, 75 to 79, 95 to 102, 128, 129 and that portion of Lot 127 which is located in said town, all as shown on a plan of land entitled "Plan of Land In Saugus and Lynnfield Owned by Frank H. Murphy, Scale 1 In = 60 Feet, April 15, 1915, W. H. Spear, Surveyor, Lynn" and recorded in the Essex county registry of deeds, southern district, in Book 2246 at Page 491 with deed to said Frank H. Murphy.

In consideration and as a condition of the conveyance authorized herein, Anthony V. Tiro shall make available, to the town of Lynnfield, a parcel of land located in the town of Saugus which is a part of the approved Hidden Valley subdivision in said town of Saugus, said parcel to connect to the end of Indian Road in Lynnfield, to provide a connection from the Hidden Valley subdivision to Mansfield road in said town of Lynnfield. In further consideration and as a condition of the conveyance authorized herein, said Anthony V. Tiro shall construct a roadway, built to the specifications of the town of Lynnfield, over said land in the towns of Saugus and Lynnfield, over the course of 280 feet of Indian Road; shall reconstruct 430 feet of the existing paved way of Mansfield road, including new drainage and stormwater control structures; shall construct 400 feet, including a cul-de-sac, of the extension of Mansfield road, including new drainage and stormwater control structures; shall remove and landscape the 300 feet of Mansfield road to be closed off; all of said construction to be in accordance with a Plan of Land in the towns of Lynnfield and Saugus, by Otte and Dwyer, dated June 15, 1998, including associated construction plans also dated June 15, 1998. In further consideration and as a condition of the conveyance authorized herein, said Anthony V. Tiro shall convey to the town of Lynnfield, all right, title and interest, if any, in Rock road, Oakwood road, Park road and Lakeview Terrace in the town of Lynnfield. In further consideration and as a condition of the conveyance authorized herein, said Anthony V. Tiro shall reimburse said town of Lynnfield for engineering, legal and appraisal fees incurred by the town in planning for this transaction.

SECTION 2. This act shall take effect upon its passage.

Approved August 7, 1998.

**Chapter 255. AN ACT AUTHORIZING THE CITY OF GLOUCESTER TO
CONTRIBUTE FINANCIAL ASSISTANCE FOR CERTAIN SEPTIC
SYSTEM COSTS.**

Be it enacted, etc., as follows:

SECTION 1. The city of Gloucester is hereby authorized to provide financial assistance to an owner of property located in said town for the cost of repair, replacement or upgrade to a septic system on such property which has been deemed to constitute a present or potential threat to human health, safety, welfare or to the environment. Said city may use public funds for the purposes set forth in this act in an amount not to exceed 25 per cent of the total cost to the property owner but in no event shall said amount exceed \$6,000 for each such property. To qualify for said funds from said city, repairs, replacement or upgrading of a septic system must be pursuant to a mandate or order by said city's wastewater management plan, court decree in United States and Commonwealth of Massachusetts v. City of Gloucester, case number 89-2206-Y or the board of health of said city, pursuant to section 11 of chapter 83 or section 127B½ of chapter 111 of the General Laws or regulations of the board of health of said city.

SECTION 2. Notwithstanding the provisions of chapter 40, 80, or 83 of the General Laws or any other general or special law, rule or regulation to the contrary, the city of Gloucester may borrow and incur debt for the purposes of this act.

Said city shall enter into an agreement with a residential property owner, who otherwise qualifies under the provisions of this act, to furnish financial assistance under the provisions of this act; provided, however, that said agreement shall be in accordance with the provisions of section 127B½ of chapter 111 of the General Laws, except for the funds contributed by said city.

SECTION 3. This act shall take effect upon its passage.

Approved August 7, 1998.

**Chapter 256. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING
AND OPERATIONS TO CONVEY CERTAIN PARCELS OF LAND
TO THE FRANKLIN REGIONAL COUNCIL OF GOVERNMENTS
FOR HIGHWAY PURPOSES.**

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital planning and operations

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is hereby authorized, notwithstanding section 40H of chapter 7 of the General Laws, to sell and convey by deed, several parcels of land currently being used for watershed purposes located in the town of New Salem to Franklin Regional Council of Governments subject to the provisions of this act and to such additional terms and conditions as the commissioner may prescribe. Said land is shown on a plan, entitled, "Proposed Alteration of a Portion of Neilson Road, New Salem", prepared by Berry Engineering, Inc., and dated August 28, 1991, which is on file with said county and said land is generally bounded and described as follows:

Parcel 1:

Beginning at Bound No. 18 bearing S 48° 29' 04" W, a distance of 20.00 feet from Station 67+00.00 of the Baseline of the proposed alteration of Neilson Road; thence, running southeasterly, a distance of 333 feet more or less along the southerly sideline of the 1805 County Layout of Neilson Road to a point in the northerly sideline of the proposed alteration of Neilson Road; thence, running S 39° 39'-30" E, a distance of 555 feet more or less to a point in the southerly sideline of the said 1805 layout; thence, running southeasterly, a distance of 178 feet more or less along the southerly sideline of the said 1805 layout to a point in the northerly property line of the other land of the Commonwealth and opposite Station 77+58; thence, turning and running westerly along the said property line between, a distance of 42 feet more or less to a point in the southerly sideline of the 1993 Alteration of Neilson Road; thence, turning and running N 39° 39' 30" W a distance of 1029 feet more or less to Bound No. 18A; thence, turning and running N 48° 29' 04" E, a distance of 10.02 feet to Bound No. 18 and the point of beginning.

The above described parcel contains 52,054 square feet, more or less.

Parcel 2:

Beginning at a point opposite Station 77+58 plus or minus of the Baseline of the proposed Alteration of Neilson Road in the westerly sideline of the 1805 County Layout of Neilson Road on the property line between two (2) parcels owned by the Commonwealth of Massachusetts; thence, running southeasterly a distance of 168 feet more or less along the westerly sideline of said 1805 County Layout to a point in the southerly sideline of the proposed Alteration of Neilson Road; thence, turning and running N 39° 39' 30" W, a distance of 193 feet more or less along said southerly sideline to other lands of the Commonwealth of Massachusetts; thence, turning and running along the aforesaid property line, a distance of 42 feet more or less to the point of the beginning.

The above described parcel contains 2,789 square feet, more or less.

Parcel 3:

Beginning at a point opposite Station 78+66 plus or minus of the Baseline of the proposed Alteration of Neilson Road and the intersection of the northerly sideline of the 1805 County Layout and the proposed Alteration of Neilson Road; thence, running S 39° 39' 30" E, a distance of 196 feet more or less to a point of curvature bearing N 50° 20' 30" E, a distance of 30.00 feet from Station 80+60.07 of the said Baseline; thence, by a curve to the left having a radius of 470.00 feet and an arc length of 425 feet more or less to a point op-

posite Station 85+12 plus or minus of said baseline and at the intersection of the northerly sidelines of the 1805 County Layout and the proposed Alteration of Neilson Road; thence, turning and running westerly, a distance of 78 feet more or less along the northerly sideline of the said 1805 County Layout to a point; thence, running westerly, a distance of 150 feet more or less to a point along the northerly sideline of the said 1805 County Layout; thence, running northwesterly, a distance of 154 feet more or less to a point along said northerly sideline of the said 1805 County Layout; thence running northwesterly, a distance of 276 feet more or less along the northerly sideline of the said 1805 County Layout to the northerly sideline of the proposed Alteration of Neilson Road and the point of beginning.

The above described parcel contains 16,879 square feet, more or less.

Parcel 4:

Beginning at a point in the northerly sideline of the proposed Alteration of Neilson Road opposite Station 86+00 plus or minus of the Baseline of the proposed Alteration of Neilson Road and at the intersection of the northerly sidelines of the 1805 County Layout and the proposed Alteration; thence, running along the northerly sideline of said Alteration on a curve to the left having a radius of 470 feet, a distance of 33 feet more or less to the point of tangency on the said northerly sideline opposite Station 86+34.89 of the said Baseline; thence, running along said northerly sideline N 74° 28' 20", a distance of 50 feet more or less along the northerly sideline of the proposed Alteration of Neilson Road to a point being the intersection of the northerly sideline of the 1805 County Layout and the proposed Alteration of Neilson Road and opposite Station 86+85 plus or minus of said Baseline; thence, turning and running southwesterly, a distance of 28 feet more or less along the northerly sideline of the said 1805 County Layout to a point; thence, running westerly, a distance of 55 feet more or less along the northerly sideline of the said 1805 County Layout to the northerly sideline of the proposed Alteration of Neilson Road and the point of beginning.

The above described parcel contains 307 square feet, more or less.

Parcel 5:

Beginning at a point at the intersection of the southerly sideline of the 1805 County Layout of Neilson Road and the southerly sideline of the proposed Alteration of Neilson Road opposite Station 84+50 plus or minus and 30.00 feet distance from the Baseline of the said proposed Alteration; thence, running easterly along the southerly sideline of the said 1805 County Layout, a distance of 221 feet more or less to a point; thence, running northeasterly along the southerly sideline of the said 1805 County Layout, a distance of 93 feet more or less to a point at the land of the Commonwealth of Massachusetts; thence, turning and running southeasterly along the land of the Commonwealth of Massachusetts, a distance of 28 feet more or less to a point in the southerly sideline of the proposed Alteration opposite Station 87+62 plus or minus and 30.00 feet distance from the Baseline of said proposed Alteration; thence, turning and running S 74° 28' 20" W a distance of 125 feet more or less to a point of tangency of a curve in said southerly sideline bearing S 15° 31' 40" E, a distance of 30.00 feet from Station 86+34.89 of the Baseline of said proposed Alteration; thence, running along a curve to the right with a radius of 530 feet, a distance of

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196 feet more or less to a point of intersection of the southerly sideline of the said 1805 County Layout and the southerly sideline of the said proposed Alteration the point of beginning.

The described parcel contains 3,237 square feet, more or less.

Parcel 6:

Beginning at a point on the southerly sideline of the 1805 County Layout of Neilson Road at other land of the Commonwealth of Massachusetts opposite station 88+43 plus or minus of the Baseline of the proposed Alteration of Neilson Road and 2 feet more or less southerly thereof; thence, running northerly along the southerly sideline of the said 1805 County Layout, a distance of 55 feet more or less to a point; thence, running northeasterly along the southerly sideline of the said 1805 County Layout, a distance of 42 feet more or less to a point of intersection with the northerly sideline of the proposed Alteration of Neilson Road opposite Station 88+43 feet plus or minus of the Baseline of the said proposed Alteration; thence, turning and running N 74° 28' 20" E, a distance of 591 feet more or less to a point of curvature at Station 94+33.95 of the Baseline of the said proposed Alteration and bearing N 15° 41' 40" W a distance of 30.00 feet therefrom; thence, by a curve to the left having a radius of 470.00 feet and an arc length of 285.51 feet to a point of tangency at Station 97+37.69 of the Baseline of said proposed Alteration and bearing N 39° 40' 00" W a distance of 13 feet more or less to the land of the Inhabitants of the Town of New Salem and a bound point for an MDC bound to be set; thence, turning and running southeasterly along said land of the Inhabitants of the Town of New Salem, a distance of 38 feet more or less to a stone bound found and the land of Fannie M. Paul; thence, turning and running southwesterly along land of said Fannie M. Paul, a distance of 52 feet more or less to a point in the southerly sideline of the proposed Alteration and opposite Station 97+06 plus or minus of the Baseline of said proposed Alteration, a distance of 30.00 feet therefrom at which point an MDC bound is set; thence, turning and running on a curve to the right having a radius of 530.00 feet, a distance of 288 feet more or less to a point of curvature at Station 94+33.95 of the Baseline of the proposed Alteration and bearing S 15° 31' 40" E, a distance of 30.00 feet therefrom; thence, running S 74° 28' 20" W a distance of 672 feet more or less to other land of the Commonwealth of Massachusetts; thence, turning and running northwesterly along said land of the Commonwealth of Massachusetts to a point; in the southerly sideline of the said 1805 County Layout and the point of beginning.

The above described parcel contains 57,673 square feet, more or less.

Parcel 7:

Beginning at a point of intersection of the northerly sideline of the proposed Alteration of Neilson Road with the northerly sideline of the 1793 County Layout of Neilson Road opposite Station 122+73 plus or minus of the Baseline of said proposed Alteration and 30.00 feet therefrom; thence, running northeasterly, a distance of 22 feet more or less to the land of Robert E. Harris, Jr.; thence, turning and running southerly along said land of Harris, a distance of 2 feet more or less to a point in the northerly sideline of the said 1793 County Layout; thence, turning and running southwesterly along the northerly sideline of said 1793

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County Layout, a distance of 21 feet more or less to the point of the beginning.

The above described parcel contains 23 square feet, more or less.

All of the boundaries may be more specifically established by the commission based on a survey.

SECTION 2. No deed conveying by or on behalf of the commonwealth the property described in section 1 shall be valid unless such deed provides that said property shall be used for highway purposes.

SECTION 3. In the event that the property described in section 1 is not used for the purposes described in section 2 or if the aforementioned purpose ceases at any time upon notice by the commissioner, the parcels shall revert to the commonwealth under such terms and conditions as the commissioner may prescribe.

SECTION 4. The recipient of said conveyance of property shall assume the costs of appraisals, surveys and other expenses as deemed necessary by the commissioner for the conveyance of this property.

SECTION 5. The 1805 county layout of Neilson road laying outside the layout lines of the proposed alteration of Neilson road will be discontinued upon completion of the construction of Neilson road and the land under the discontinued portions of said 1805 county layout and abutting commonwealth land shall revert to the commonwealth.

SECTION 6. This act shall take effect upon its passage.

Approved August 7, 1998.

Chapter 257. AN ACT RELATIVE TO THE DEVELOPMENT AND PRESERVATION OF AFFORDABLE HOUSING.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the development and preservation of affordable housing, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for a capital outlay program to rehabilitate and modernize state-owned public housing developments, to preserve the affordability and the income mix of state-assisted multifamily developments, to support home ownership and rental housing opportunities for low and moderate income citizens of the commonwealth, to stem urban blight through the implementation of housing stabilization programs, to support housing for the elderly, disabled and homeless, and to promote economic reinvestment through the funding of infrastructure improvements, the sums set forth in section 2, for the several purposes and subject to the conditions specified under the provisions of this act, are hereby made available from the General Capital Projects Fund, so-called, subject to the provisions of law regulating the disbursement of public funds.

SECTION 2.

Department of Housing and Community Development.

- 7004-8984 For the purposes of state financial assistance in the form of grants for projects undertaken pursuant to clause (j) of section 26 of chapter 121B of the General Laws; provided, that contracts entered into by the department for such projects may include, but shall not be limited to, projects providing for renovation, remodeling, reconstruction, redevelopment, and hazardous material abatement, including asbestos and lead paint, and for compliance with state codes and laws, the provision of day care facilities, learning centers and teen service centers and the adaptation of units for families and persons with disabilities; provided further, that priority shall be given to projects undertaken for the purpose of compliance with state codes and laws or for other purposes related to the health and safety of residents; provided further, that the department may, as a condition of bids on modernization work funded pursuant to the provisions of this item, direct housing authorities to require that all general contractors and subcontractors seek to train and employ eligible project residents in existing apprenticeship programs pursuant to regulations or guidelines established by the department, and to include in such programs, to the greatest extent possible, nonresidents from adjacent neighborhoods who are otherwise income-eligible to be residents under the provisions of said chapter 121B; provided further, that the department may require housing authorities to assist tenant organizations to obtain all available assistance and finances from local and federal programs that provide job training, scholarships and other sources in order to train existing or newly hired tenant employees; and provided further, that funds may be expended from this item to make such modifications to congregate housing units, so-called, as may be necessary to increase the occupancy rate of such units \$187,000,000
- 7004-8985 For the purpose of state financial assistance in the form of community development action grants to be awarded pursuant to the provisions of section 57A of chapter 121B of the General Laws; provided, that not less than \$2,000,000 of the amount authorized for expenditure here-

	in shall be used for projects in seriously distressed areas having a significant amount of vacant land or buildings, as defined by the department	\$25,000,000
7004-8986	For the purpose of state financial assistance in the form of grants or loans for the Housing Innovations Fund Program established pursuant to section 12	\$21,000,000
7004-8987	For the purpose of state financial assistance in the form of grants or loans for the housing stabilization and investment program established pursuant to section 13; provided, that notwithstanding the provisions of said section 13 or any other general or special law to the contrary, not less than \$15,000,000 shall be expended from this item for state financial assistance by the commonwealth acting by and through the department of housing and community development for the purpose of preserving existing privately- owned state-assisted housing; provided further, that said housing shall be limited to housing where the prepayment of a state or federally assisted Massachusetts Housing Finance Agency mortgage would lead or has led to the termination of a use agreement for low income housing; provided further, that funds may be expended for a capital access reserve to provide loan guarantees to facilitate the purchase of property which is or was subject to prepayment of a state or federally assisted Massachusetts Housing Finance Authority mortgage; and provided, further, that the department of housing and community development may enter into a contract with the Massachusetts Housing Finance Authority to administer said program of loan guarantees	\$41,000,000
7004-9980	For state financial assistance in the form of a grant or loan by the commonwealth acting by and through the department of housing and community development for a Capital Improvement and Preservation Fund for the purposes of preserving and improving existing privately-owned, state or federally assisted housing; provided, that said housing may be limited to housing where the prepayment of a state or federally-assisted Massachusetts Housing Finance Agency mortgage would lead or has led to the termination of a use agreement for low income housing or for which	

the United States Department of Housing and Urban Development has approved but not fully funded a plan of action to transfer the housing to a qualified tenant or tenant endorsed purchaser; provided further, that in allocating funds pursuant to this item, preference may be given to nonprofit organizations seeking to purchase property which is or was subject to prepayment of a state or federally assisted Massachusetts Housing Finance Agency mortgage; provided further, that said department, in consultation with nonprofit organizations and the Massachusetts Housing Finance Agency, shall identify those projects at greatest risk of prepayment and shall grant equal preference in allocating funds pursuant to this item to such developments; provided further, that at least one-half of the units in such housing shall be occupied and affordable to persons of income of 80 per cent or less of the area wide median income as determined by the federal Department of Housing and Urban Development; provided further, that the department shall preserve, not less than 10 per cent of the units in such housing as available and affordable to households with income of 50 per cent or less of the area wide median income as determined by said United States Department of Housing and Urban Development or such greater percentage of units as required by Massachusetts Housing Finance Agency regulations; provided further, that said department of housing and community development may enter into subcontracts with community development corporations, for-profit organizations, or nonprofit organizations to carry out the purposes of such grants and loans and may enter into contracts with the Massachusetts Housing Finance Agency; provided further, that a portion of the funds may be allocated in the form of predevelopment grants or loans to nonprofit purchasers of such housing; provided further, that such housing shall remain affordable for its useful life as determined by said department of housing and community development; and provided further, that said department of housing and community development shall promulgate regulations for the purposes of implementing the provisions of this item \$20,000,000

7004-9981 For the recapitalization of the Massachusetts Housing Partnership Fund \$2,000,000

SECTION 3. To meet the expenditures necessary in carrying out the provisions of section 2, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$296,000,000. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Housing Preservation and Neighborhood Development Loan Act of 1998, and shall be issued for a maximum term of years, not exceeding 20 years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June 30, 2025. All interest and payments on account of principal on such obligations shall be payable from the General Fund. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 4. The state treasurer may borrow from time to time on the credit of the commonwealth such sums as may be necessary for the purpose of meeting payments authorized by section 2 and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall be not later than June 30, 2005. Notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

SECTION 5. Item 3722-8891 of section 2 of chapter 494 of the acts of 1993 is hereby amended by inserting after the word "personnel", in line 27, the following words:- ; provided further, that notwithstanding the provisions of this item to the contrary, \$15,000,000 may be expended for the design, preparation of plans and construction of scattered site housing units, so-called, or the acquisition of other housing units for very low and low income individuals and families; provided, further, that affordability of such replacement housing shall, to the greatest extent possible, reflect the range of affordability of those units being replaced; provided, further, that funds may be expended from this item only to replace project based housing units, so-called, which have been deemed to be uninhabitable due to a failure of such units to meet life and safety code requirements, or to develop affordable housing units which are deemed necessary by the department of housing and community development as part of a development plan; provided, further, that said department of housing and community development shall promulgate regulations to implement the provisions of this item.

SECTION 6. The director of housing and community development shall submit on an annual basis, to the house and senate committees on ways and means, the joint committee on housing and urban development, and the house committee on long term debt and capital expenditures, a capital spending plan broken down by authorization item; provided, that said capital spending plan shall reflect a balanced allocation of capital funds authorized by this

act; and provided further, that said director may conduct a public hearing prior to the submission of said capital spending plan.

SECTION 7. The director of housing and community development shall investigate and study the effect on the quality and availability of open space of awards of financial assistance made pursuant to this act. Said study shall consider the ability of said department of housing and community development to incorporate a standard of open space as a factor in project review which is compatible with local needs, and shall seek to evaluate the per unit cost impact of such a standard. Said department shall develop and report such study to the joint committee on housing and urban development not later than 180 days after the effective date of this act.

SECTION 8. The director of housing and community development shall investigate the effects of expiring use restriction and expiration of section 8 contracts, so-called, on the availability of housing for low and moderate income persons in the commonwealth and shall develop and report to the joint committee on housing and urban development and the house and senate committees on ways and means, not later than 90 days after the effective date of this act, on federal policies or policies which are developed as a result of the implementation of this act relating to the provision of financial assistance to such properties. Said department shall develop strategies to maximize reliance on federal programs and financial resources to address expiring use restrictions caused by federal policy and shall weigh the costs and public benefits of providing financial assistance to such properties against the cost and public benefits of providing comparable low and moderate income housing opportunities through other means.

SECTION 9. The director of housing and community development shall study possible means to increase the occupancy of congregate housing units, so-called. Said study shall be submitted to the house and senate committees on ways and means and to the joint committee on housing and urban development not later than six months after the effective date of this act.

SECTION 10. Notwithstanding the provisions of any general or special law to the contrary, wherever feasible and cost effective, renovations or improvements to state-owned or state-assisted housing units paid for with funds authorized in section 2 shall maximize the use of recycled materials and the use of alternative energy sources.

SECTION 11. Notwithstanding the provisions of any general or special law to the contrary, renovations or improvements to state-owned or state-assisted housing units shall take into account the special needs of elderly and handicapped tenants so as to ensure ease of access by such tenants to bathroom facilities.

SECTION 12. The department of housing and community development may enter into contracts for state financial assistance in the form of grants or loans by the commonwealth acting by and through the department of housing and community development; provided, however, that grants made according to the provisions of this section may be made only to public or quasi-public agencies; provided further, that said department shall administer the Housing Innovations Fund Program for the purpose of facilitating the creation

and retention of alternative forms of rental and ownership housing. Such forms of housing shall include, but not be limited to: single room occupancy units; limited equity cooperative housing; transitional housing for the homeless; battered women's shelters; mutual housing; housing acquired by nonprofit entities pursuant to Title II of the National Emergency Low Income Housing Preservation Act of 1987 and Title VI of the National Affordable Housing Act of 1990 and other innovative forms of housing; provided further, that at least one-half of the beneficiaries of such housing shall be persons whose income is less than 80 per cent of the area wide median income as determined from time to time by the United States Department of Housing and Urban Development. The department of housing and community development shall give preference to those projects which provide transitional and permanent housing for homeless individuals and families and disabled persons, as well as housing for elders and low income persons at imminent risk of homelessness due to the expiration of protections under chapter 282 of the acts of 1994. Any such loan program shall be administered by the department of housing and community development through contracts with authorities which shall include housing authorities and redevelopment authorities duly organized and existing in accordance with chapter 121B of the General Laws, and may also include community development corporations duly organized and existing in accordance with chapter 40F of the General Laws, the Massachusetts Housing Finance Agency, a body politic and corporate entity established by chapter 708 of the acts of 1966, the Community Economic Development Assistance Corporation, a body politic and corporate entity established by chapter 40H of the General Laws, and the government land bank, a body politic and corporate entity established by chapter 212 of the acts of 1975. Said organizations may, pursuant to the terms and conditions of said contracts with the department, directly issue loans for the purposes of said program, or may enter into subcontracts with nonprofit organizations established pursuant to chapter 180 of the General Laws for such purposes. Loans issued directly or indirectly by such organizations shall be subject to the review and approval of the department.

Loans issued pursuant to this section shall be subject to the following provisions:

(1) such loans shall be limited to not more than 50 per cent of the financing of the total development costs;

(2) such loans shall only be issued when a contract or agreement for the use of the property for the purposes of such housing provides for the recording of a restriction in the registry of deeds or the registry district of the land court in the county in which the affected real property is located, for the benefit of said department, running with the land, that the land be used for the purpose of providing alternative forms of rental and ownership housing. Such property shall not be released from such restriction until the balance of the principal and interest for any such loan shall be repaid in full or until a mortgage foreclosure deed shall be recorded;

(3) such loans shall be issued for a term of up to 30 years during which time repayment may be deferred by the loan issuing authority, unless at the end of a fiscal year, cash collections from all sources in connection with such housing, except for contributions,

donations or grant moneys, exceed 105 per cent of cash expenditures on behalf of such housing, including debt service, operating expenses, operating reserves and capital reserves. Such excess cash shall be paid to the commonwealth within 45 days of the end of such fiscal year, payable first to interest due hereunder and thereafter to principal advanced pursuant to such loan. If on the date such loans become due and payable to the commonwealth an outstanding balance exists, such loans may be extended for such periods, each period not to extend beyond ten years, as the department determines, provided that the project continues to remain affordable housing as set forth in the contract or agreement entered into for the duration of the project by the department. In the event that the terms of repayment detailed in this item would cause a project authorized by this section to become ineligible to receive federal funds which would otherwise assist in the development of that project, the commissioner may waive the terms of repayment which would cause the project to become ineligible;

(4) interest rates for such loans shall be fixed at a rate to be determined by the director of housing and community development, in consultation with the state treasurer;

(5) expenditures from this section shall not be made for the purpose of refinancing outstanding mortgage loans for housing in existence prior to the effective date of this act unless such housing had previously received funding pursuant to item 3722-8879 of section 3 of chapter 226 of the acts of 1987 or item 3722-8899 of section 2 of chapter 494 of the acts of 1993;

(6) said department shall take due consideration of a balanced geographic plan for such alternative forms of housing when issuing such loans; and

(7) housing projects developed pursuant to this act shall not be refinanced during the term of a loan issued pursuant to this section unless the balance of the principal and interest for such loan is repaid in full at the time of such refinancing. Such housing project may be refinanced if such refinancing would result in a reduction of costs paid by the commonwealth. Any such refinanced loan shall be due and payable on a date not later than the date on which the original loan was due and payable, except in accordance with clause (3), or is necessary to effect extraordinary repairs or maintenance to be approved by the director of housing and community development.

The department of housing and community development shall promulgate regulations for the implementation of the housing loan program authorized by this section.

SECTION 13. The department of housing and community development may enter into contracts for state financial assistance in the form of grants or loans by the commonwealth acting by and through the department of housing and community development for projects undertaken for the housing stabilization and investment program, so-called. Said department shall administer the housing stabilization and investment program for the purpose of undertaking projects to develop and support affordable housing developments and homeownership affordability through the acquisition, preservation and rehabilitation of affordable housing; provided, however, that such program may include assistance for projects to stabilize and promote reinvestment in cities and towns including,

but not limited to, acquisition, rehabilitation and preservation of foreclosed and distressed properties and any other techniques necessary to achieve such reinvestment. Assistance provided through said program may be made in a manner which qualifies the assistance as a matching contribution under Section 220 of the HOME Investment Partnership Act Title II of the Cranston-Gonzalez National Affordable Housing Act, including, in the case of assistance provided in the form of a loan, a commitment to repay such loan to the commonwealth's HOME Investment Trust Fund established pursuant to Section 92.5000(o) of the regulations of the United States Department of Housing and Urban Development. Loans may be provided to any agency, department, board, commission, authority or instrumentality of the commonwealth or any political subdivision thereof, to housing authorities, community development corporations and limited equity cooperative housing corporations established pursuant to chapter 157B of the General Laws. Such recipients may enter into subcontracts to carry out the purposes of such contract with other for-profit or not-for profit organizations. Prior to providing assistance, the department shall find that: (1) the housing would not, by private enterprise alone and without government assistance, be available to lower income families and individuals; (2) the amount of the assistance appears to be the minimum amount necessary to make the housing development feasible; (3) with respect to rental housing, the operations of the owner and its articles of organization and by-laws and any changes to either, shall be subject to regulation by the department; and (4) the housing shall remain affordable for its useful life as determined by the department. Such housing shall be considered affordable, if during the first 20 years after assistance is first provided, substantially all of the assisted units shall be rented to or owned by families and individuals whose income at initial occupancy is equal to or less than 80 per cent of the median income as determined by the Secretary of Housing and Urban Development for the federal housing programs and that thereafter such units shall be rented or sold, subject to such restrictions on appreciation as determined by the department to be reasonable and necessary to maintain long term affordability, to families or individuals at incomes at or below 100 per cent of the median income.

Funds provided herein may be used for grants to cities and towns to assist with the costs of demolishing certain privately-owned vacant and abandoned buildings that have been found to be uninhabitable and not economically feasible to rehabilitate and which the city or town is authorized to demolish pursuant to sections 127A and 127B of chapter 111 of the General Laws or sections 6 to 9, inclusive, of chapter 143 of the General Laws, and the regulations promulgated pursuant to said chapters, or which have been taken by the city or town for taxes; provided, however, that any such demolition shall be undertaken in accordance with a neighborhood revitalization plan adopted by the city or town after a public hearing and after approval by the department which provides for the rehabilitation and development of housing in the areas in which such demolition is being undertaken; and provided further, that the department of housing and community development shall promulgate regulations for the purpose of implementing the provisions of this section including, but not limited to, grants to cities and towns for demolition of certain vacant and abandoned

buildings and procedures for neighborhood revitalization plans; provided, however, that not more than \$3,000,000 may be expended for new construction of affordable housing.

Not more than \$10,000,000 may be expended in the form of loans by the commonwealth, acting by and through the department of housing and community development, for a Rental Property Emergency Fund Pilot Program for the purpose of the repair or replacement of major building systems, abate lead paint, asbestos or other environmental hazards or to complete other repairs or improvements as deemed necessary by the department for continued inclusion of housing rental units in the Massachusetts rental voucher program. Loans issued pursuant to this fund shall be subject to the following provisions: (1) owners shall demonstrate rental property management expertise or capacity satisfactory to the department in accordance with standards to be developed by the department; (2) such loans shall be limited to a level set by the department of housing and community development per qualifying unit which shall be defined as a unit then currently under lease through the Massachusetts rental voucher program; and (3) all units so assisted shall be kept at rents within the limits established by the Massachusetts rental voucher program for the duration of the loan. The department may enter into subcontracts with housing authorities or other quasi-public agencies having rental property management and training expertise to carry out the purpose of the program funded herein.

Notwithstanding the restrictions described in this section, funds provided for the Housing Stabilization and Investment Program shall be used for a revolving rehabilitation loan program to support the revitalization of certain abandoned or severely distressed privately-owned residential housing for which a court appointed, nonprofit receiver has been selected pursuant to the provisions of chapter 111 of the General Laws. Such program may include activities necessary to make essential repairs and to pay operating expenses necessary to maintain habitability of such housing units in order to prevent abandonment and deterioration of such housing in primarily low and moderate income neighborhoods. Such loans may be administered by the department of housing and community development through contracts with the Community Economic Development Assistance Corporation, a body politic and corporate entity established by chapter 40H of the General Laws, and through contracts with the Massachusetts Housing Partnership Fund, an instrumentality of the commonwealth established by section 35 of chapter 405 of the acts of 1985. Said recipients may enter into subcontracts to administer the purposes of such contracts with other for-profit or nonprofit organizations. The department of housing and community development shall promulgate regulations for the purpose of implementing the provisions of this section.

An amount not to exceed \$1,000,000 may be expended in the form of loans to nonprofit developers for the acquisition of property to provide or preserve affordable housing. Such program of loans may be administered by the department of housing and community development through contracts with said Community Economic Development Assistance Corporation. Such program may include acquisition, financing and other holding costs, interim management and operating costs, and may also be used by said Community

Economic Development Assistance Corporation to secure, collateralize or reserve against other financing obtained said Community Economic Development Assistance Corporation to support such costs. At least one-half of the beneficiaries of such housing shall be persons of income less than 80 per cent of the area wide median income as determined by the United States Department of Housing and Urban Development.

Notwithstanding the restrictions described in this section, not more than \$12,000,000 of the funds provided for the Housing Stabilization and Investment Program may be used for the purposes of the Soft Second Mortgage program described in item 3322-8880 of section 2 of chapter 110 of the acts of 1993.

Within 120 days of the effective date of this section, the director of housing and community development shall develop a program to support the rehabilitation of owner-occupied one to four-family properties and the acquisition and rehabilitation of such properties by persons of low or moderate income and shall provide a report on such proposed program to the joint committee on housing and urban development. The program may include, but shall not be limited to, direct loans, loan guarantees and loan loss reserves and the objective of such program shall include the following: (1) projects shall rely, to the greatest extent possible, on bank financing and other taxable financing to support the costs of such acquisition and rehabilitation; (2) coordinating the delivery of such financing and related rehabilitation services with cities and towns that provide such assistance utilizing federal community development block grants, federal HOME funds, and other resources; (3) expediting and simplifying the process by which home buyers may obtain financial and technical assistance for such acquisitions and rehabilitation; and (4) ensuring that adequate provisions are in place to assure that rehabilitation is completed in a timely and professional manner and to protect homeowners from excessive acquisition and rehabilitation costs.

There is hereby established a Home Investment Trust Fund. Any money received from loan repayments pursuant to this section shall be deposited in said trust fund and may be expended by the department solely for the purposes set for herein.

SECTION 14. The costs of professional personnel directly involved in the planning, design and construction of projects funded by section 2, including costs incurred pursuant to section 5D of chapter 29 of the General Laws but excluding clerical and support personnel, may be charged to the authorizations in said section 2; provided, however, that said costs shall not be classified as administrative costs. An amount not to exceed 2 per cent of said authorizations may be expended by the department of housing and community development for administrative costs directly attributable to the programs funded by this act, including costs of clerical and support personnel. The director of said department shall file an annual spending plan with the fiscal affairs division and the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to expenditures made pursuant to this act.

SECTION 15. In making awards of financial assistance pursuant to this act or in seeking the participation of lending institutions in programs funded by this act, the director of housing and community development shall give special consideration to proposals that

promote the participation of banks and banking institutions that have received an outstanding, or high satisfactory, community investment rating in their most recent bank examination by state or federal bank regulators.

SECTION 16. Notwithstanding the provisions of any general or special law to the contrary, the unexpended balance of the following bond funded authorizations shall cease to be available for expenditure after the effective date of this act: 3722-8841, 3722-8842, 3722-8843, 3722-8846, 3722-8861, 3722-8862, 3722-8863.

SECTION 17. Notwithstanding the provisions of any general or special law to the contrary, the unexpended balance of the bond funded authorizations which exceed the amount below for each such item shall cease to be available for expenditure after the effective date of this act.

3722-7871	\$1,900,000
3722-8872	\$8,400,000
3722-8873	\$3,800,000
3722-9950	\$3,700,000

SECTION 18. There is hereby established a special commission to study the availability of housing for extremely-low to moderate income families and individuals in the city of Lowell with particular emphasis on households with annual income that reflects the present composition of the Julian D. Steele complex. Said commission shall investigate methods to replace the number of housing units at the Julian D. Steele complex, in said city of Lowell, with an equal or greater number of housing units affordable to households with annual incomes that reflect the present composition of residents in the Julian D. Steele complex in said city. Said commission shall consider opportunities to renovate said Julian D. Steele complex in an effort to improve the quality of the housing units at said complex as well as the quality of life for the residents of said complex. As methods to replace such housing, said commission shall consider the following options: (a) the renovation or improvement to all or part of said Julian D. Steele complex; (b) construction of publicly-owned scattered site housing units; (c) the acquisition of abandoned properties; (d) the use of properties to be seized by said city due to a failure of the owners of such properties to pay real estate taxes or other levies owed to said city; or (e) any other methods which will fulfill the objectives of maintaining the same or greater levels of housing units for extremely-low to moderate income families and individuals in said city of Lowell.

Said commission shall consist of three members of the senate, three members of the house of representatives, one from each branch shall serve as co-chairmen, the director of housing and community development or his designee, and one additional nonvoting member of the director's staff, and nine persons to be appointed by the governor, one of whom shall be the director of the John W. McCormack Institute of Public Affairs at the University of Massachusetts or his designee, one of whom shall be the city manager of the city of Lowell or his designee, one of whom shall be the executive director of the Lowell Housing Authority or his designee, one of whom shall be the president of the Julian D. Steele tenant council, two of whom shall be duly elected tenants of the Julian D. Steele complex, one of whom

shall be a representative of a community housing and tenants' rights organization in said city of Lowell to be selected by the director of the department of housing and community development, one of whom shall be a representative from Citizen's Housing and Planning Association, Inc., and one of whom shall be the mayor of the city of Lowell or his designee.

Said commission shall file its recommendations together with recommendations for legislation, if any, with the house and senate clerks who shall forward the same to the house and senate committees on housing and urban development on or before November 15, 1998.

SECTION 19. Notwithstanding the provisions of any general or special law to the contrary, except as provided in sections 16 and 17 of this act, amounts authorized in chapter 748 of the acts of 1985, chapter 226 of the acts of 1987 and chapter 494 of the acts of 1993 shall be available to supplement the purposes established in this act to the extent that such previous authorizations shall be similar to the purposes established in this act.

SECTION 20. The secretary of administration and finance shall study the impact of chapter 30B of the General Laws on the implementation of this act and the implications of exempting projects funded herein from the provisions of said chapter 30B. Said secretary shall report the results of such study to the joint committee on state administration, the joint committee on housing and urban development, the house committee on long term debt and capital expenditures and the house and senate committees on ways and means not later than December 31, 1998.

This bill was returned on August 7, 1998, by the Lieutenant Governor-Acting Governor to the House of Representatives, the branch in which said bill was originated, with his objections in writing to the following items therein:

Items Disapproved: SECTIONS 6, 7 and 9

The remainder of the bill was approved by the Lieutenant Governor-Acting Governor on August 7, 1998 at twelve o'clock and forty-five minutes, P.M.

Chapter 258. AN ACT REGULATING SET OFF OF MUTUAL DEBTS AND CREDITS INVOLVING AN INSOLVENT INSURER.

Be it enacted, etc., as follows:

SECTION 1. Section 180C of chapter 175 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following paragraph:-

Mutual debts or mutual credits, whether arising out of one or more contracts between an insolvent insurer and another insurer, in connection with any action or proceeding under this chapter shall be set off and the balance shall be allowed or paid except as hereinafter provided. No set off shall be allowed in favor of any insurer where:

(1) the obligation of the insolvent insurer to the other insurer would not, as of the date of the filing of the petition for receivership, entitle the other insurer to share as a claimant in the assets of the insolvent insurer;

(2) the obligation of the insolvent insurer to the other insurer was purchased by or transferred to the other insurer with a view to its being used as a set off;

(3) the obligation of the insolvent insurer is owed to an affiliate of such insurer, or any other entity or association other than the insurer;

(4) the obligation of the insurer is owed to an affiliate of the insolvent insurer or any other entity or association other than the insolvent insurer;

(5) the obligation of the insurer is to pay an assessment levied against the members or subscribers of the insolvent insurer or is to pay a balance upon a subscription to the capital stock of the insolvent insurer or is any other way in the nature of a capital contribution; or

(6) the obligations between the insurer and the insolvent insurer arise from business where either the insurer or the insolvent insurer has assumed risks and obligations from the other party and then has ceded back to the party substantially the same risks and obligations.

SECTION 2. This act shall apply to all contracts entered into, renewed, extended or amended on or after the effective date of this act and shall not otherwise apply to contracts entered into prior to its effective date.

This bill was returned by the Lieutenant Governor-Acting Governor to the Senate, the branch in which it originated, with his objections thereto, was passed by the Senate on May 14, 1998, and by the House of Representatives on July 31, 1998, the objections of the Lieutenant Governor-Acting Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has "the force of law".

Chapter 259. AN ACT INSURING COMMUNITY INVESTMENT AND THE EQUITABLE TAXATION OF INSURANCE COMPANIES IN MASSACHUSETTS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 63 of the General Laws is hereby amended by inserting after section 29B the following three sections:-

Section 29C. A life insurance company subject to the excise imposed by either sections 20 or 22 shall be allowed a credit against either such excise equal to 1½ per cent of such company's total capital contribution in excess of their full proportionate share which shall mean an investment in the Massachusetts life insurance company community investment initiative equal to at least the product of the following:-

(1) \$20,000,000;

(2) multiplied by a fraction, the numerator of which shall be the life insurance company's total net investment income tax due and payable under section 22B of chapter 63 for the tax year ending on or before December 31, 1997 and the denominator of which shall be the total net investment tax due and payable under said section 22B for all life insurance companies doing business in the commonwealth for the tax year ending on or before December 31, 1997. For a company that was not subject to said section 22B in the tax year

ending on or before December 31, 1997, the numerator shall be the life insurance company's total net investment income tax due and payable under said section 22B for the taxable year two years prior to the current taxable year. The department of revenue shall determine each company's full proportionate share and shall provide such information to said company within 30 days of receipt of a request by said company, for the existence of such initiative, provided, however, in the taxable year beginning on or after the fifth year, the amount of said credit shall be equal to 1.5 per cent of such company's total capital contribution.

Section 29D. A property and casualty insurance company subject to the excise upon premiums imposed by either sections 22 or 23 shall be allowed a credit against either such excise equal to $1\frac{1}{2}$ per cent of such company's total capital contribution in excess of their full proportionate share which shall mean an investment in the Massachusetts property and casualty insurance company community and economic development initiative equal to at least the product of the following:

(1) \$20,000,000;

(2) multiplied by a fraction, the numerator of which shall be the property and casualty insurance company's total gross investment tax under section 22A of chapter 63 for the tax year ending on or before December 31, 1997 and the denominator of which shall be the total gross investment tax under said section 22A for all property and casualty insurance companies doing business in the commonwealth for the tax year ending on or before December 31, 1997. For a company that was not subject to said section 22A in the tax year ending on or before December 31, 1997, the numerator shall be the P&C insurance company's total net investment income tax due and payable under said section 22A for the taxable year two years prior to the current taxable year. The department of revenue shall determine said company's full proportionate share and shall provide such information to said company within 30 days of receipt of a request by said company, for the existence of such initiative, provided, however, in the taxable year beginning on or after the fifth year, the amount of said credit shall be equal to 1.5 per cent of such company's total capital contribution.

Section 29E. (a) As used in this section, the following words shall have the following meanings:-

"Credit share", a credit amount equal to the product of the following:

(1) \$8,000,000;

(2) multiplied by a fraction, the numerator of which shall be the domestic property and casualties insurer's retaliatory taxes attributable to the surtax which would have been payable for the preceding taxable year, before application of the credit provided by subsection (b) and the denominator of which shall be the total retaliatory taxes attributable to the surtax which would have been payable for the preceding taxable year, before application of the credit provided by subsection (b) for all domestic property and casualty companies that do business in the commonwealth and that have submitted the information required by subsection (d).

"Domestic property and casualty insurer", a property and casualty company organized

or domiciled in the commonwealth.

"Foreign property and casualty insurer", a property and casualty company organized or domiciled in another jurisdiction.

"Property and casualty insurer", an insurance company which satisfies the definition of an insurance company in section 1 of chapter 175, except life insurance companies as defined in section 118 of said chapter 175, and which is subject to the provisions of this chapter.

"Retaliatory taxes", those taxes imposed or assessed by and paid to another jurisdiction by any domestic property and casualty insurer due to the surtax imposed by section 18 of chapter 546 of the acts of 1969. Such term, however, shall not include penalties or interest for late payment of taxes.

(b) Property and casualty insurers which pay retaliatory taxes to other jurisdictions may claim a credit against the tax imposed by section 22 of chapter 63 of the General Laws. Except as provided in subsection (c), the amount of the credit shall equal 100 per cent of the retaliatory taxes attributable to the surtax which would have been payable for the preceding taxable year, before application of any credit. The company seeking the credit must furnish proof of payment of the retaliatory tax to the commissioner as required pursuant to subsection (d).

(c) If the total retaliatory taxes attributable to the surtax payable for the prior tax year as reported pursuant to subsection (d) for all domestic property and casualty companies that do business in the commonwealth exceed \$8,000,000, the amount of each domestic property and casualty company's credit shall be limited to that company's credit share. The commissioner of revenue shall be responsible for reporting to each company its credit share amount by February fifteenth of the current taxable year.

(d) A domestic property and casualty company shall provide the commissioner of revenue with the amount of its retaliatory taxes attributable to the surtax and payable for the preceding taxable year, before application of the credit, by December 31 of the current taxable year.

SECTION 2. (a) Subsections (a) to (g), inclusive shall be known as the Massachusetts Life Insurance Company Community Investment Initiative Act.

(b) In this section the following words shall have the following meaning:

"Admitted assets", the assets of a life insurance company sufficient to meet policyholders claims and obligations of the company valued by the commissioner in accordance with the standards set forth under chapter 175 of the General Laws and as reported in the insurance company's annual statement required to be filed thereunder.

"Aggregate cumulative investment", the sum of the accumulated capital contributions, without reference to investment results, by all life insurance companies participating in the Massachusetts Life Insurance Company Community Investment Initiative Act.

"Base investment share amount", the number obtained by multiplying 25 per cent of the Massachusetts life insurance company community investment initiative's aggregate cum-

ulative investment by a fraction, the numerator of which shall be the sum of the Massachusetts office of business development (MOBD) unemployment factor for a particular MOBD region and the MOBD labor force factor for that region and the denominator of which shall be two.

"Commissioner", the commissioner of insurance.

"Community development lender", a community development financial institution as defined pursuant to 12 USC section 4702, a non-profit organization, government agency, quasi-government agency, or any other organization whose mission is community and economic development, or affordable housing.

"Financial intermediary", any non-profit, public or quasi-public organization or agency that assembles public or private capital for the purposes of making qualified investments, as defined herein.

"Full proportionate share", an investment in the Massachusetts life insurance company community investment initiative equal to at least the product of the following:

(1) \$20,000,000;

(2) multiplied by a fraction, the numerator of which shall be the life insurance company's total net investment income tax due and payable under section 22B of chapter 63 of the General Laws for the tax year ending on or before December 31, 1997 and the denominator of which shall be the total net investment tax due and payable under said section 22B for all life insurance companies doing business in the commonwealth for the tax year ending on or before December 31, 1997. For a company that was not subject to said section 22B in the tax year ending on or before December 31, 1997, the numerator shall be the life insurance company's total net investment income tax due and payable under said section 22B for the taxable year two years prior to the current taxable year. The department of revenue shall determine each company's full proportionate share and shall provide such information to said company within 30 days of receipt of a request by said company.

"Life insurance company", a corporation, which satisfies the definition of either a domestic or foreign life insurance company in either section 118 of chapter 175 of the General Laws or section 19F of said chapter 175, and which is subject to the provisions of chapter 63 of the General Laws.

"Low and moderate income community", an economic target area as defined pursuant to section 3A of chapter 23A of the General Laws, an enhanced economic enterprise community or empowerment zone as designated by the United States Department of Housing and Urban Development, or one or more contiguous census tracts as designated by a city or town, in which either: (1) a majority of the households are low and moderate income households as defined herein; or (2) the unemployment rate is at least 25 per cent higher than the annual statewide average unemployment rate where such statewide unemployment rate is less than or equal to 5 per cent; provided that, if the annual statewide average unemployment rate is greater than 5 per cent, the community's unemployment rate need only be 10 per cent higher to qualify for investment by the life initiative.

"Low and moderate income households", households which have incomes that do not

exceed 80 per cent of the median income for the area, with adjustments made for smaller and larger families, as such median shall be determined from time to time by the Secretary of Housing and Urban Development pursuant to 42 USC section 1437(a)(B)(2).

"Massachusetts life insurance company community investment initiative" or "Life initiative" an entity or its successor, created by life insurance companies, or the successor to any such companies, pursuant to this section for the public purposes described herein.

"Massachusetts office of business development labor force factor" or the "MOBD labor force factor", a fraction, the numerator of which shall be the labor force of a particular MOBD region for the previous 12 months beginning July 1 and ending June 30 as reported by the department of employment and training and the denominator of which shall be the sum of the labor force of each MOBD region for the same period.

"Massachusetts office of business development region" or "MOBD region", one of the five geographic areas of the commonwealth, the boundaries of which may be determined from time to time by the Massachusetts office of business development established pursuant to section 1 of chapter 23A of the General Laws, or its successor; provided, however, that no region shall be smaller than one county in size; and provided further, that there shall be a western region, a central region, a northeast region, a greater Boston region, and a southeast region.

"Massachusetts office of business development unemployment factor" or "MOBD unemployment factor", a fraction, the numerator of which shall be the annual average unemployment rate of the particular MOBD region for the previous 12 months beginning July 1 and ending June 30 as reported by the department of employment and training and the denominator of which shall be the sum of the annual average unemployment rate of each MOBD region for the same period.

"Minority business enterprise", a business which meets the definition of "Minority business enterprise" in section 40 of chapter 23A of the General Laws.

"Participating life insurance company", a life insurance company participating in the life initiative.

"Person", an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, trust, unincorporated organization or any similar entity.

"Qualified interim investment", (1) marketable general obligations of the commonwealth, its agencies or political subdivisions thereof; and (2) debt maturing less than one year from the date of its issuance. The total of all such investment at any point in time shall not exceed the greater of: (i) the amount received by the life initiative in cash as contributions from the participating life insurance companies during the preceding calendar year; or (ii) 10 per cent of the aggregate cumulative investment made in said life initiative. Such investments shall be utilized for the sole purpose of investing the money of said life initiative on an interim basis until such time as the money is invested or reinvested in a qualified investment. In no instance shall the money be in any one qualified interim investment for more than 24 consecutive months during the first five years of said life initiative's existence nor for longer

than for 12 consecutive months in any one qualified interim investment thereafter.

"Qualified investment", any investment made, or a commitment to make an investment within the commonwealth which provides a prudent and sound investment opportunity and: (1) provides an investment in minority or women business enterprises; (2) provides an investment in small businesses; (3) provides an investment in rental housing or home ownership opportunities targeted to low and moderate income households or low and moderate income communities; (4) provides an investment that will create jobs for low and moderate income households living in a low and moderate income community; (5) provides an investment in community health centers that serve low and moderate income communities; (6) provides an investment in the Community Development Finance Corporation; or (7) provides an investment in the Massachusetts Housing Partnership Fund.

A qualified investment shall be made directly, through a community development lender, or through a financial intermediary.

A qualified investment shall take the form of one or more of the following instruments:

- (i) original issue debt or equity securities;
- (ii) securities which are derived from the exchange of previously held original issue securities or otherwise acquired by the life initiative in circumstances which make such securities the substantial equivalent of original issue debt or equity securities;
- (iii) credit enhancements;
- (iv) securities backed by Massachusetts affordable mortgage loans; or
- (v) or any combination of the above of any community development lender.

A qualified interim investment shall be considered a qualified investment for purposes of compliance with subparagraph (1) of paragraph (B) of subsection d.

"Small business", shall mean any business whose annual sales are less than \$5,000,000 and which is either located in a low or moderate income community or employs, as a majority of its workforce, members of low or moderate income households.

"Statewide annual average unemployment rate", the commonwealth's average annual unemployment rate for the most recently reported 12 month period, as reported by the division of employment and training.

"Women business enterprise", any business which meets the definition of "Women business enterprise" in section 40 of chapter 23A of the General Laws.

(c)(1) Notwithstanding paragraph (1) of section 22B of chapter 63 of the General Laws, or any other special or general law to the contrary, and except as provided in paragraphs (2) and (3) of this subsection and subsection (d), every life insurance company which is not subject to tax under section 22A of chapter 63 of the General Laws and which has contributed its full proportionate share to the life initiative for the current taxable year, shall annually pay an investment income tax, determined as a percentage of its net investment income for the taxable year, at the following rates: 12 per cent for tax years beginning on or after the later of January 1, 1999 or the first year in which said company contributes its full proportionate share; 9 6/10 per cent for tax years beginning on or after the

second year in which said company contributes its full proportionate share; $7\frac{2}{10}$ per cent for tax years beginning on or after the third year in which said company contributes its full proportionate share; $4\frac{8}{10}$ per cent for tax years beginning on or after the fourth year in which said company contributes its full proportionate share; $2\frac{4}{10}$ per cent for tax years beginning on or after the fifth year in which said company contributes its full proportionate share; and no investment income tax shall be due for tax years beginning after the fifth year in which said company contributes its full proportionate share. The investment income tax shall be adjusted and apportioned to the commonwealth in accordance with the provisions of paragraphs (2), (3) and (4) of said section 22B of said chapter 63.

(2) A life insurance company which does not contribute its full proportionate share of the aggregate cumulative investment for the current taxable year to the life initiative shall pay annually the rate in effect for the most recent taxable year in which said company contributed its full proportionate share.

(3) The provisions of paragraph (1) shall apply to a participating domestic life insurance company when such company files with the commissioner of revenue the return required by paragraph (e) of section 12 of chapter 62C of the General Laws accompanied by a certificate of contribution issued pursuant to subparagraph (2) of paragraph (B) of subsection (d) of section 3 of this act.

(d)A. The life initiative shall be formed by two or more life insurance companies and take the form of a limited liability company under the provisions of chapter 156C of the General Laws, a trust, or such other form or forms of a business entity authorized by the General Laws.

B.(1) Upon the filing with the office of the state secretary of the certificate required to be filed by section 12 of chapter 156C of the General Laws, or the filing with the office of the state secretary of such other documents as may be required to evidence the creation of a business entity, the provisions of subsection (c) shall become effective and shall remain effective, at the rate so specified, so long as: the total aggregate cumulative investment for each year is invested in qualified investments in that year.

(2) The life initiative shall, for each taxable year beginning on or after January 1, 1999 and for each taxable year thereafter until the aggregate cumulative investment in said life initiative reaches \$100,000,000, issue a certificate of contribution to each life insurance company that has contributed its full proportionate share as required under this section to the life initiative. This certificate shall be duly executed under oath by the chief executive officer of the life initiative, and shall state: (1) the amount of the contribution of the participating life insurance company for the taxable year; (2) the total amount contributed to the life initiative by all participating life insurance companies in the taxable year; (3) the amount of the participating life insurance company's share of the aggregate cumulative investment; and (4) the amount of the total aggregate cumulative investment. The commissioner shall review each certificate and approve it if satisfied as to its accuracy and completeness. Notwithstanding any provision of the General Laws, including clause 26 of section 7 of chapter 4 of the General Laws and chapter 66 of the General Laws, said certificate of contribution shall

not be considered a public record and shall be treated as confidential under the provisions of section 21 of chapter 62C of the General Laws. The certificate shall be used by the commissioner of revenue solely to determine the proper rate of tax.

C. Except as specified in this subsection, life insurance companies and the life initiative shall be subject to the provisions of this act for a period of not less than 24 years from its effective date. For purposes of this subsection, the "effective date" shall mean the date on which the life initiative is created in accordance with the terms of this section. The life insurance companies may, at their election, choose to no longer be subject to the initiative provisions of this section: (1) at any time after expiration of such 24 year period; or (2) at any time in the event that, during the period of the investment initiative's existence, there has been a statutory amendment which results in an increase in the rate of the annual net investment income tax paid by domestic life insurance companies to the commonwealth or a reenactment of the annual net investment income tax, which rate increase or reenactment is other than a proportional part of a general increase in the taxation of business in the commonwealth.

D. No distribution constituting a return of capital contributed by a participating life insurance company shall be made prior to the twentieth anniversary of the effective date of the life initiative. Distributions of net earnings from the life initiative to the participating life insurance companies shall be permitted at any time. Distributions constituting a return of capital contributed by a participating life insurance company shall be allowed on or after the twentieth anniversary of the effective date of the life initiative. After such twentieth anniversary, in addition to such distribution of net earnings, distributions of capital contributions shall be allowed but shall not exceed 5 per cent per annum of the aggregate cumulative investment made prior to such twentieth anniversary of the organization of the life initiative, provided that on or after the twenty-fifth anniversary of the organization of said initiative, the remaining capital may be distributed to the participating life companies.

E. (1) The business and investments of such life insurance initiative shall be managed pursuant to the charter documents of the life initiative and conducted, at all times, in compliance with the provisions of this section. The participating life insurance companies shall form an investment committee to review, authorize and act upon specific investments and to establish underwriting guidelines. Such investment committee shall consist of representatives from each of the participating life insurance companies who shall elect no fewer than two individuals, one of whom shall represent a community based organization and one of whom shall either represent a community based organization or have expertise in making or evaluating qualified investments; provided, however, that at least one such representative shall be from the central or western MOBD region; and provided further, that it shall not be a conflict of interest for the organization represented by said community representative to receive funds from such life initiative provided that said representative shall abstain from voting on investments that accrue directly to said organization. Investment decisions shall at all times be within the sole discretion of such life initiative subject to the criteria set forth in this act.

(2) The investment committee shall hold at least one public meeting each year in each of the five MOBD regions in order to receive information from interested parties regarding qualified investments within a particular MOBD region. Said investment committee shall keep an accurate record of each meeting, and shall include such information in the annual report of the life initiative required hereunder.

F. Notwithstanding the provisions of any general or special law to the contrary or any limitations contained in its charter, and in addition to existing authority, any life insurance company: (1) may participate in the life initiative, or any part thereof, pursuant to the provisions of this act; (2) may make loans and contributions to such life initiative, or any part thereof; and (3) may enter into binding agreements with other life insurance companies to make such loans and contributions, either initial or additional, and to restrict the transfer or other disposition of any interest in such life initiative. The authority to make the aforesaid loans or contributions and the authority of such life initiative to make investments shall not be subject to any provision in chapter 175 of the General Laws relating to the control of investments or to any limitation on investment, whether stated as a percentage or otherwise, other than those contained in this act. All such loans and contributions by a participating life insurance company in such life initiative shall be deemed to be admitted assets. No restriction or prohibition contained in chapter 175 shall be deemed violated on account of any investments held by such life initiative.

G. The life initiative may indemnify any of its officers, employees or agents and each life insurance company participating in such life initiative may indemnify any of its officers, employees or agents which serve such life initiative at such life insurance company's request, against any and all liabilities, costs and expenses arising from such service.

(e) On or before June 1 of each year beginning prior to the expiration of the life initiative as set forth in paragraph C of subsection (d), the life initiative shall file for the preceding tax year with the commissioner and the clerk of the senate and the clerk of the house of representatives the following:

(1) A written annual report which shall provide: (i) a list of all participating life insurance companies; (ii) the amount of capital contributions made by each participating life insurance company for the taxable year and in the aggregate; (iii) the amount of qualified investments made by the life initiative for that year; (iv) the total aggregate cumulative investments of the life initiative; (v) a list of all the investments made; (vi) the value of each investment made; (vii) the type of investment; (viii) the recipient's name, address, city and zip code; (ix) the amount, if any, in qualified interim investments; (x) a brief statement reporting how each investment meets the criteria of "qualified investment" as that term is defined in subsection (b) of this section; and (xi) the records of the annual public meetings held in each MOBD region. Such annual report shall be made on a form prescribed by the commissioner and duly executed under oath by the chief executive officer of the life initiative. Such report shall be considered a public document as defined in clause Twenty-sixth of section 7 of chapter 4 of the General Laws.

(2) A financial statement which shall report the financial condition of the life initia-

tive at the end of the preceding taxable year and the investments of the life initiative. The information contained in the financial statement shall be certified by an independent certified public accountant. Such financial statement shall be considered a public document as defined in clause Twenty-sixth of section 7 of chapter 4 of the General Laws.

(3) A certificate, executed by the chief executive officer of the life initiative after due inquiry and based on best information and belief, stating that the investments made by such life initiative during the preceding years comply with the provisions of paragraphs (1) and (2) of subsection (f). Such certificate shall be considered a public document as defined in clause Twenty-sixth of section 7 of chapter 4 of the General Laws. Such certificate shall initially be filed on December 31, 2002 and every year thereafter.

The clerks of the senate and the house of representatives shall forward copies of the report to the chairs of the house and senate committees on ways and means, the joint committee on taxation and the joint committee on insurance.

(f)(1) At least 25 per cent of the funds invested by the life initiative shall be credited and distributed to qualified investments in the five MOBD regions in the commonwealth. Each MOBD region shall receive a base investment share amount. The life initiative may execute after due inquiry a certificate reporting that there are insufficient qualified investments within a particular MOBD region to enable the life initiative to meet the base investment share amount in a particular year. This certificate shall be filed with the commissioner of insurance and with the clerks of the senate and house of representatives. The clerks of the senate and house of representatives shall forward copies of said certificate to the joint committee on taxation and the joint committee on insurance. Upon the filing of the certificate, such life initiative may credit and distribute that region's portion of such life initiative's proceeds to qualified investments in other MOBD regions.

(2) The life initiative shall invest and reinvest the amount specified in subsection (f)(1) in qualified investments in the five MOBD regions for the period it remains subject to the provisions of this section; provided, however, that the life initiative shall not be required to meet the distribution requirement specified under paragraph (1) of subsection (f) until December 31, 2002.

(g)(1) The commissioner shall have the power to inspect and examine the affairs of the life initiative, and to require such statements and reports as he may reasonably deem necessary, to determine its financial condition, its ability to fulfill its obligations and whether it is in compliance with this act. The life initiative shall pay the reasonable charges incurred in such examination, including the expenses of the commissioner or his deputy or examiners and the expenses and compensation of any disinterested experts which the commissioner shall reasonably deem advisable to complete the examination. The commissioner or the person authorized by said commissioner to make examinations provided for by this section shall have free access to all of the assets of the life initiative for purpose of verification and to all of the books and papers relating to its business. The commissioner or the person authorized by said commissioner may summon and examine under oath any person who he believes has knowledge of the affairs, transactions or circumstances being examined. Whoever without

justifiable cause neglects upon due summons to appear or testify before the commissioner or his authorized representative, and whoever unlawfully obstructs said commissioner or said representative in making examinations hereunder, shall be punished by a fine of not more than \$1,000.

(2) If the commissioner, upon review of the annual report submitted to him pursuant to subsection (e), and upon an examination of the books of the life initiative, or upon request, shall have reasonable cause to believe that any investment reported by the life initiative as a qualified investment is, in fact, not properly characterized as a qualified investment as defined in subsection (b), the commissioner may hold a public hearing, conducted in accordance with the provisions of chapter 30A of the General Laws, to determine whether such investment is a qualified investment. Any such action brought by the commissioner to determine the status of an investment as a qualified investment shall be commenced no later than six months following the receipt of the certificate required by said subsection (e).

(3) Upon a final determination, which shall be the later of the commissioner's order or a final judicial determination, that an investment is not a qualified investment, the following remedial action shall be taken: (A) the commissioner shall promptly notify the commissioner of revenue of such final determination; (B) the commissioner of revenue, upon receipt of such notice shall subtract the amount of such investment from the sum of the aggregate cumulative investment of the life initiative; (C) the life initiative shall, within 90 days following such final determination: (i) dispose of any investment finally determined not to be a qualified investment to one or more of the participating domestic life insurance companies or to any outside party; (ii) deposit the proceeds of such disposition into the life initiative; and (iii) in the event of disposition as aforesaid, to the extent that the amount of funds received by the life initiative is less than the face amount of all outstanding debt and the cost of all equity securities involved, such differences shall be restored to the life initiative by the participating life insurance companies as additional contributions within 90 days of such disposition; provided, however, that any final determination shall affect the reduction in the rate of additional excise payable only in the taxable years subsequent to the year in which such final determination was made.

(4) The commissioner may issue, in accordance with the provisions of chapter 30A of the General Laws and after a public hearing, such rules and regulations as are reasonably necessary to carry out the provisions of subsection (e).

(5) At the request of the commissioner, the attorney general may maintain and prosecute, in the name of the commonwealth, an action against the life initiative, its officers, directors, partners, stockholders, members, trustees, or agents, for the purpose of obtaining an injunction restraining such person or persons from doing any acts in violation of the provisions of this act or any lawful orders of the commissioner.

(6) Any finding, ruling, order or decision of the commissioner under authority of this section shall be subject to review by appeal directly to the supreme judicial court at the request of the life initiative or the attorney general within 20 days after receipt of such finding, ruling, order or decision, which appeal shall be on the basis of the record of the proceedings

before the commissioner. The filing of such an appeal shall act as a stay of any such finding, ruling, order or decision unless the court shall determine otherwise. The court shall review all questions of fact and of law involved in said proceedings and may modify, amend, annul, reverse or affirm such finding, ruling, order or decision or make any other appropriate order or decree.

SECTION 3. (a) Subsections (a) to (g), inclusive, shall be known as the Massachusetts Property and Casualty Insurance Company Community and Economic Development Initiative Act.

(b) In this act the following words or terms shall have the following meanings:

"Admitted assets", the assets of a property and casualty insurance company sufficient to meet policyholders claims and obligations of the company valued by the commissioner in accordance with the standards set forth under chapter 175 of the General Laws and as reported in the insurance company's annual statement required to be filed thereunder.

"Aggregate cumulative investment", the sum of the accumulated capital contributions, without reference to investment results, by all property and casualty insurance companies participating in the Massachusetts property and casualty insurance company community and economic development investment initiative.

"Base investment share amount", the number obtained by multiplying 25 per cent of the Massachusetts property and casualty insurance company community and economic development investment initiative's aggregate cumulative investment by a fraction, the numerator of which shall be the sum of the Massachusetts office of business development unemployment factor for a particular Massachusetts office of business development region and the Massachusetts office of business development labor force factor for that region and the denominator of which shall be two.

"Commissioner", the commissioner of insurance.

"Community development lender", a community development financial institution as defined pursuant to 12 USC section 4702, a non-profit organization, government agency, quasi-government agency, or any other organization whose mission is community and economic development, or affordable housing.

"Credit share", a credit amount equal to the product of the following:

(1) \$8,000,000;

(2) multiplied by a fraction, the numerator of which shall be the participating property and casualties insurer's retaliatory taxes attributable to the surtax and payable for the preceding taxable year, before application of the credit provided by section 4(c) (B)(1) and the denominator of which shall be the total retaliatory taxes attributable to the surtax and payable for the preceding taxable year, before application of the credit provided by section 4(c) (B)(1) for all participating domestic property and casualty companies that do business in the commonwealth and that have submitted the information required by subparagraph 3 of paragraph (B) of subsection (c).

"Domestic property and casualty insurer", a property and casualty company organized or domiciled in this commonwealth.

"Financial intermediary", any non-profit, public or quasi-public organization or agency that assembles public or private capital for the purposes of making qualified investments, as defined herein.

"Foreign property and casualty insurer", a property and casualty company organized or domiciled in another jurisdiction.

"Full proportionate share", an investment in the Massachusetts property and casualty insurance company community and economic development initiative equal to at least the product of the following:

(1) \$20,000,000;

(2) multiplied by a fraction, the numerator of which shall be the property and casualty insurance company's total gross investment tax under section 22A of chapter 63 of the General Laws for the tax year ending on or before December 31, 1997 and the denominator of which shall be the total gross investment tax under said section 22A of said chapter 63 for all property and casualty insurance companies doing business in the commonwealth for the tax year ending on or before December 31, 1997. For a company that was not subject to section 22A of chapter 63 in the tax year ending on or before December 31, 1997, the numerator shall be the P&C insurance company's total net investment income tax due and payable under section 22A of chapter 63 of the General Laws for the taxable year two years prior to the current taxable year. The department of revenue shall determine said company's full proportionate share and shall provide such information to said company within 30 days of receipt of a request by said company.

"Low and moderate income community", an economic target area as defined pursuant to section 3A of chapter 23A of the General Laws, an enhanced economic enterprise community or empowerment zone as designated by the United States Department of Housing and Urban Development, or one or more contiguous census tracts as designated by a city or town, in which either: (i) a majority of the households are low and moderate income households as defined herein, or (ii) the unemployment rate is at least 25 per cent higher than the annual statewide average unemployment rate where such statewide unemployment rate is less than or equal to 5 per cent; provided that, if the annual statewide average unemployment rate is greater than 5 per cent, the community's unemployment rate need only be 10 per cent higher to qualify for investment by the P&C initiative.

"Low and moderate income households", those households which have incomes that do not exceed 80 per cent of the median income for the area, with adjustments made for smaller and larger families, as such median shall be determined from time to time by the Secretary of Housing and Urban Development pursuant to 42 USC section 1437(a)(B)(2).

"Massachusetts office of business development labor force factor" or "MOBD labor force factor", a fraction, the numerator of which shall be the labor force of a particular Massachusetts office of business development region for the previous 12 months beginning July 1 and ending June 30 as reported by the department of employment and training and the denominator of which shall be the sum of the labor force of each Massachusetts office of business development region for the same period.

"Massachusetts office of business development region" or "MOBD region", one of the five geographic areas of the commonwealth, the boundaries of which may be determined from time to time by the Massachusetts office of business development established pursuant to section 1 of chapter 23A of the General Laws, or its successor; provided, however, that no region shall be smaller than one county in size; and provided further, that there shall be a western region, a central region, a northeast region, a greater Boston region, and a southeast region.

"Massachusetts office of business development unemployment factor" or "MOBD unemployment factor", a fraction, the numerator of which shall be the annual average unemployment rate of the particular MOBD region for the previous 12 months beginning July 1 and ending June 30 as reported by the department of employment and training and the denominator of which shall be the sum of the annual average unemployment rate of each MOBD region for the same period.

"Massachusetts property and casualty insurance company community and economic development initiative" or "P&C initiative", an entity or its successor, created by property and casualty insurance companies, or the successor to any such companies, pursuant to this section for the public purposes described herein.

"Minority business enterprise", any business which meets the definition of "minority business enterprise" in section 40 of chapter 23A of the General Laws.

"Participating property and casualty insurance company", a property and casualty insurance company participating in the P&C initiative.

"Person", an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, trust, unincorporated organization or any similar entity.

"Property and casualty insurance company", an insurance company which satisfies the definition of either a domestic or a foreign insurance company in section 1 of chapter 175 of the General Laws, except life insurance companies as defined in section 118 of said chapter 175, and which is subject to the provisions of chapter 63 of the General Laws.

"Qualified interim investment", (1) marketable general obligations of the commonwealth, its agencies or political subdivisions thereof; and (2) debt maturing less than one year from the date of its issuance. The total of all such investments at any one time shall not exceed the greater of: (i) the amount received by the P&C initiative in cash as contributions from the participating property and casualty insurance companies during the preceding calendar year; or (ii) 10 per cent of the aggregate cumulative investment made in the P&C initiative. Such investments shall be utilized for the sole purpose of investing the money of the P&C initiative on an interim basis until such time as the money is invested or reinvested in a qualified investment. In no instance shall the money be in any one qualified interim investment for more than 24 consecutive months during the first five years of the P&C initiative's existence nor for longer than 12 consecutive months in any one qualified interim investment thereafter.

"Qualified investment", any investment made, or a commitment to make an invest-

ment in Massachusetts which provides a prudent and sound investment opportunity and: (1) provides an investment in minority or women business enterprises; (2) provides an investment in small businesses; (3) provides an investment in rental housing or home ownership opportunities targeted to low and moderate income households; (4) provides an investment that will create jobs for low and moderate income households living in a low and moderate income community; (5) provides an investment in community health centers that serve low and moderate income communities; (6) provides an investment in the Community Development Finance Corporation, or (7) provides an investment in the Massachusetts Capital Access Program.

A qualified investment shall be made directly, through a community development lender, or through a financial intermediary.

A qualified investment shall take the form of one or more of the following instruments:

- (1) original issue debt or equity securities;
- (2) securities which are derived from the exchange of previously held original issue securities or otherwise acquired by the P&C initiative in circumstances which make such securities the substantial equivalent of original issue debt or equity securities;
- (3) credit enhancements;
- (4) securities backed by Massachusetts affordable mortgage loans; or
- (5) any combination of the above of any community development lender.

A qualified interim investment shall be considered a qualified investment for purposes of compliance with subparagraph 1 of paragraph (B) of subsection (d).

"Retaliatory taxes", those taxes imposed or assessed by and paid to another jurisdiction by any participating domestic property and casualty insurer due to the surtax imposed by section 18 of chapter 546 of the acts of 1969. Such term, however, shall not include penalties or interest for late payment of taxes.

"Small business", a business whose annual sales are less than \$5,000,000 and which is either located in a low or moderate income community or employs, as a majority of its workforce, members of low or moderate income households.

"Statewide annual average unemployment rate", the commonwealth's average annual unemployment rate for the most recently reported 12 month period, as reported by the department of employment and training.

"Women business enterprise", a business which meets the definition of "Women business enterprise" in section 40 of chapter 23A of the General Laws.

(c)A(1) Notwithstanding the provisions of section 22A of chapter 63 of the General Laws, or any other special or general law to the contrary, upon the organization and funding by two or more participating property and casualty insurers of the P&C initiative in accordance with the provisions of this section, and except as provided in subparagraphs (C) and (D), the rate of excise imposed upon the gross investment income earned during the preceding calendar year, as such gross investment income is reported in the annual statement filed for said year with the commissioner of insurance pursuant to section 25 of chapter 175

of the General Laws, and as shown on line 10, Column 8, Part 1 of the Underwriting and Investment Exhibit for property and casualty, shall be as follows for participating property and casualty insurance companies: 0.8 per cent for tax years beginning on or after the later of January 1, 1999 or the first year in which said company contributes its full proportionate share; 0.6 per cent for tax years beginning on or after the second year in which said company contributes its full proportionate share; 0.4 per cent for tax years beginning on or the third year in which said company contributes its full proportionate share; 0.2 per cent for tax years beginning on or after fourth year in which said company contributes its full proportionate share; and no gross investment income tax shall be due for tax years beginning on or after the fifth year in which said company contributes its full proportionate share.

B (1) Except as provided in subparagraph 2 of paragraph (B) of subsection (c) and subsection (d), upon the organization and funding by two or more participating property and casualty insurance companies of the P&C initiative in accordance with the provisions of this section, for each year in which a participating property and casualty insurance company contributes its full and proportionate share, said company may receive a permanent incremental credit against the tax imposed by section 22 of the General Laws equal to increasing percentages of the retaliatory taxes paid during the preceding taxable year and attributable to the surtax, before application of the credit, as follows: 20 per cent for the tax year beginning on or after the later of January 1, 1999 or the first year in which a participating P&C company contributes its full proportionate share; 40 per cent for the tax year beginning on or after the later of January 1, 2000 or the second year in which a participating P&C company contributes its full proportionate share; 60 per cent for the tax year beginning on or after the later of January 1, 2001 or the third year in which a participating P&C company contributes its full proportionate share; 80 per cent for the tax year beginning on or after the later of January 1, 2002 or the fourth year in which a participating P&C company contributes its full proportionate share; 100 per cent for the tax year beginning on or after the later of January 1, 2003 or the fifth year in which a participating P&C company contributes its full proportionate share. In no instance shall this credit be a refundable credit. Such credit shall not exceed 100 per cent of the retaliatory taxes paid during the preceding taxable year and attributable to the surtax, before application of the credit for any particular tax year. The company seeking the credit must furnish proof of payment of the retaliatory tax to the commissioner as required pursuant to subparagraph 3 of paragraph (B) of subsection (c).

(B)(2) If the total retaliatory taxes attributable to the surtax payable for the prior tax year as reported pursuant to subparagraph 3 of paragraph (B) of subsection (c) for all participating domestic property and casualty companies that do business in the commonwealth exceed \$8,000,000, the amount of each participating domestic property and casualty company's credit shall be limited to the lesser of: (1) the credit allowed pursuant to subparagraph 1 of paragraph (B) of subsection (c); or (2) that company's credit share. The commissioner of revenue shall be responsible for reporting to each company its credit share by February fifteenth of the current taxable year.

(B)(3) In order to receive the credit provided in subparagraph 1 of paragraph (B) of subsection (c), participating domestic property and casualty company must provide the Commissioner of Revenue with the amount of its retaliatory taxes attributable to the surtax and payable for the preceding taxable year, before application of the credit, by December 31 of the current taxable year.

C Notwithstanding any other provision of this section, a property and casualty insurance company which does not contribute its full proportionate share for the current taxable year to the P&C initiative shall annually pay the gross investment income tax rate in effect for the most recent taxable year in which said company contributed its full proportionate share.

D The provisions of subparagraph (1) of paragraph A of this subsection shall apply to a property and casualty insurance company when such a company files with the commissioner of revenue the return required by paragraph (e) of section 12 of chapter 62C of the General Laws accompanied by a certificate of contribution issued pursuant to subparagraph 2 of paragraph B of subsection (d) of this section.

(d)A The P&C initiative shall be formed by two or more property and casualty insurance companies and shall take the form of a limited liability company under the provisions of chapter 156C of the General Laws, or such other form or forms of a business entity authorized by the General Laws.

B(1) Upon the filing with the office of the state secretary of the certificate required to be filed by section 12 of chapter 156C of the General Laws, or the filing with the office of the state secretary of such documents as may be required to evidence the creation of a business entity, the provisions of subsections (c)(A)(1) and (c)(B)(1) shall become effective and shall remain effective, at the rate so specified, so long as: the total aggregate cumulative investment for each year is invested in qualified investments for that year.

(2) The P&C initiative shall, for each taxable year beginning on or after January 1, 1999 and for each taxable year thereafter until the aggregate cumulative investment in the P&C initiative reaches \$100,000,000 issue a certificate of contribution to each participating property and casualty insurance company that has contributed to the P&C initiative. This certificate shall be duly executed by the chief executive officer of the P&C initiative, and shall state: (i) the amount of the contribution of the participating domestic property and casualty insurance company for the taxable year; (ii) the total amount contributed by the participating property and casualty insurance companies to the P&C initiative in the taxable year; (iii) the amount of the participating property and casualty insurance company's share of the aggregate cumulative investment; and (iv) the amount of the total aggregate cumulative investment. The commissioner shall review each certificate and approve it if satisfied as to its accuracy and completeness. Notwithstanding any provision of the General Laws, including clause Twenty-sixth of section 7 of chapter 4 of the General Laws and chapter 66 of the General Laws, said certificate of contribution shall not be considered a public record and shall be treated as confidential under the provisions of section 21 of chapter 62C of the General Laws. The certificate shall be used by the commissioner of revenue solely to determine the proper rate of tax.

C Except as specified in this subsection, participating property and casualty insurance companies and the P&C initiative shall be subject to the provisions of this section for a period of not less than 24 years from its effective date. For the purpose of this subsection, "effective date" shall mean the date on which the P&C initiative is created in accordance with the terms of this section. The property and casualty insurance companies may, at their election, choose to no longer be subject to the initiative provisions of this act (i) at any time after expiration of such 24 year period, or (ii) at any time in the event that, during the period of the investment initiative's existence, there has been a statutory amendment which results in an increase in the rate of the annual gross investment income tax paid by domestic property and casualty insurance companies to the commonwealth or a reenactment of the annual gross investment income tax, which rate increase or reenactment is other than a proportional part of a general increase in the taxation of business in the commonwealth.

D No distribution constituting a return of capital contributed by a participating property and casualty insurance company shall be made prior to the twentieth anniversary of the effective date of the P&C initiative. Distributions of net earnings from the P&C initiative to the participating property and casualty insurance companies shall be permitted at any time. Distributions constituting a return of capital contributed by a participating property and casualty insurance company shall be allowed on or after the twentieth anniversary of the effective date of the P&C initiative. After such twentieth anniversary, in addition to such distribution of net earnings, distributions of capital contributions shall be allowed but shall not exceed 5 per cent per annum of the aggregate cumulative investment made prior to such twentieth anniversary of the organization of the P&C initiative, provided that on or after the twenty-fourth anniversary of the organization of said initiative, the remaining capital may be distributed to the participating P&C companies.

E(1) The business and investments of each property and casualty insurance company comprising the P&C initiative shall be managed pursuant to the charter documents of the P&C initiative and conducted, at all times, in compliance with the provisions of this section. The participating property and casualty insurance companies shall form an investment committee to review, authorize and act upon specific investments and to establish underwriting guidelines. The committee shall consist of representatives from each of the participating property and casualty insurance companies who shall elect no fewer than two individuals, one of whom shall represent a community based organization and one of whom shall either represent a community based organization or have expertise in making or evaluating qualified investments; provided, however, that at least one such representative shall be from the central or western MOBD region; and provided further, that it shall not be a conflict of interest for the organization represented by said community representative to receive funds from the P&C initiative; provided, however, that said representative shall abstain from voting on investments that accrue directly to said organization. Investment decisions shall at all times be within the sole discretion of the P&C initiative subject to the criteria set forth in this section.

(2) The investment committee shall hold at least one public meeting each year in each of the five MOBD regions in order to receive information from interested parties regarding qualified investments within a particular MOBD region. Said investment committee shall keep an accurate record of each meeting, and shall include such information in the annual report of the P&C initiative required hereunder.

F Notwithstanding any limitations contained in the laws of the commonwealth or in its charter, and in addition to existing authority, a property and casualty insurance company may: (1) participate in the P&C initiative, or any part thereof, pursuant to the provisions of this section; (2) may make loans and contributions to the P&C initiative, or any part thereof; and (3) may enter into binding agreements with other property and casualty insurance companies to make such loans and contributions, either initial or additional, and to restrict the transfer or other disposition of any interest in the P&C initiative. The authority to make the aforesaid loans or contributions and the authority of the P&C initiative to make investments shall not be subject to any provision in chapter 175 of the General Laws relating to the control of investments or to any limitation on investment, whether stated as a percentage or otherwise, other than those contained in this section. All such loans and contributions by a participating property and casualty insurance company in the P&C initiative shall be deemed to be admitted assets. No restriction or prohibition contained in said chapter 175 shall be deemed violated on account of any investments held by the P&C initiative.

G The P&C initiative may indemnify any of its officers, employees or agents and each property and casualty insurance company participating in the P&C initiative may indemnify any of its officers, employees or agents which serve the P&C initiative at such property and casualty insurance company's request, against any and all liabilities, costs and expenses arising from such service.

(e) On or before June 1 of each year beginning prior to the expiration of the P&C initiative as set forth in paragraph C of subsection (d), the P&C initiative shall file for the preceding tax year with the commissioner and the clerks of the senate and house of representatives the following:

(1) A written annual report which shall provide: (i) a list of all participating P&C insurance companies; (ii) the amount of capital contributions made by each participating property and casualty insurance company for the taxable year and in the aggregate; (iii) the amount of qualified investments made by the P&C initiative for that year; (iv) the total aggregate cumulative investments of the P&C initiative; (v) a list of all the investments made; (vi) the value of each investment made; (vii) the type of investment; (viii) the recipient's name, address, city and zip code; (ix) the amount, if any, in qualified interim investments; (x) a brief statement reporting how each investment meets the criteria of "qualified investment" as that term is defined in subsection (b); and (xi) the records of the annual public meetings held in each MOBD region. Such annual report shall be made on a form prescribed by the commissioner and duly executed under oath by the chief executive officer of the P&C initiative. Such report shall be considered a public document as defined in clause Twenty-sixth of section 7 of chapter 4 of the General Laws.

(2) A financial statement which shall report the financial condition of the P&C initiative at the end of the preceding taxable year and the investments of the P&C initiative. The information contained in the financial statement shall be certified by an independent certified public accountant. Such financial statement shall be considered a public document as defined in clause Twenty-sixth of section 7 of chapter 4 of the General Laws.

(3) A certificate, executed by the chief executive officer of the P&C initiative after due inquiry and based on best information and belief, stating that the investments made by the P&C initiative during the preceding years comply with the provisions of paragraph (1) of subsection (f). Such certificate shall be considered a public document as defined in clause Twenty-sixth of section 7 of chapter 4 of the General Laws. Such certificate shall initially be filed on December 31, 2002 and then every year thereafter.

The clerks of the senate and house of representatives shall forward copies of the report to the chairs of the house and senate committees on ways and means and to the joint committee on taxation and the joint committee on insurance.

(f)(1) At least 25 per cent of the aggregate cumulative investment of the P&C initiative shall be credited and distributed to qualified investments in the five MOBD regions in the commonwealth. Each MOBD region shall receive its base investment share amount. The P&C initiative may execute after due inquiry a certificate reporting that a lack of qualified investments exists in a MOBD region. This certificate shall be filed with the commissioner of insurance and with the clerks of the senate and house of representatives. The clerks of the senate and house of representatives shall forward copies of said certificate to the joint committee on taxation and the joint committee on insurance. Upon the filing of this certificate, the P&C initiative may credit and distribute that region's portion of the P&C initiative's proceeds to qualified investments in other MOBD regions.

(2) The P&C initiative shall invest and reinvest the amount specified in subsection (f)(1) in qualified investments in the five MOBD regions for the period it remains subject to the provisions of this section; provided, however, that the P&C initiative shall not be required to meet the distribution requirement specified under subsection (f)(1) until December 31, 2002.

(g)(1) The commissioner shall have the power to inspect and examine the affairs of the P&C initiative, and to require such statements and reports as he may reasonably deem necessary, to determine its financial condition, its ability to fulfill its obligations and whether it is in compliance with this section. The P&C initiative shall pay the reasonable charges incurred in such examination, including the expenses of the commissioner or his deputy or his examiners and the expenses and compensation of any disinterested experts which the commissioner shall reasonably deem advisable to complete his examination. The commissioner or the person authorized by him to make examinations provided for by this section shall have free access to all of the assets of the P&C initiative for purpose of verification and to all of the books and papers relating to its business. The commissioner or the person authorized by him may summon and examine under oath any person, who, he believes has knowledge of the affairs, transactions or circumstances being examined. Whoever without

justifiable cause neglects upon due summons to appear or testify before the commissioner or his authorized representative, and whoever unlawfully obstructs said commissioner or said representative in making examinations hereunder, shall be punished by a fine of not more than \$1,000.

(2) If the commissioner, upon review of the annual report submitted to him pursuant to subsection (e) of section 4, and upon an examination of the books of the P&C initiative, or upon request, shall have reasonable cause to believe that any investment reported by the P&C initiative as a qualified investment is, in fact, not properly characterized as a qualified investment as defined in subsection (b) of this section, the commissioner may hold a public hearing, conducted in accordance with the provisions of chapter 30A of the General Laws, to determine whether such investment is a qualified investment. Any such action brought by the commissioner to determine the status of an investment as a qualified investment shall be commenced no later than six months following the receipt of the certificate required by said subsection (e) of said section 4.

(3) Upon a final determination, which shall be the later of the commissioner's order or a final judicial determination, that an investment is not a qualified investment, the following remedial action shall be taken: (i) the commissioner shall promptly notify the commissioner of revenue of such final determination; (ii) the commissioner of revenue, upon receipt of such notice shall subtract the amount of such investment from the sum of the aggregate cumulative investment of the P&C initiative; (iii) the P&C initiative shall, within 90 days following such final determination: dispose of any investment finally determined not to be a qualified investment to one or more of the participating domestic property and casualty insurance companies or to any outside party; deposit the proceeds of such disposition into the P&C initiative; and, in the event of disposition as aforesaid, to the extent that the amount of funds received by the P&C initiative is less than the face amount of all outstanding debt and the cost of all equity securities involved, such differences shall be restored to the P&C initiative by the participating property and casualty insurance companies as additional contributions within 90 days of such disposition. However, any final determination shall affect the reduction in the rate of additional excise payable only in the taxable years subsequent to the year in which such final determination was made.

(4) The commissioner may issue, in accordance with the provisions of chapter 30A of the General Laws and after a public hearing, such rules and regulations as are reasonably necessary to carry out the provisions of subsection (h).

(5) At the request of the commissioner, the attorney general may maintain and prosecute, in the name of the commonwealth, an action against the P&C initiative, its officers, directors, partners, stockholders, members, trustees, or agents, for the purpose of obtaining an injunction restraining such person or persons from doing any acts in violation of the provisions of this act or any lawful orders of the commissioner.

(6) Any finding, ruling, order or decision of the commissioner under authority of this section shall be subject to review by appeal directly to the supreme judicial court of the commonwealth at the request of the P&C initiative or the attorney general within 20 days

after receipt of such finding, ruling, order or decision, which appeal shall be on the basis of the record of the proceedings before the commissioner. The filing of such appeal shall act as a stay of any such finding, ruling, order or decision unless the court shall determine otherwise. The court shall review all questions of fact and of law involved in said proceedings and may modify, amend, annul, reverse or affirm such finding, ruling, order or decision or make any other appropriate order or decree.

SECTION 4. Chapter 816 of the acts of 1977 is hereby amended by striking out section 11 and inserting in place thereof the following section:-

Section 11. There shall be allowed as a credit against the tax imposed by sections 20 and 22 of chapter 63 of the General Laws and by section 2 of chapter 531 of the acts of 1943 with respect to each taxable year an amount equal to 1½ per cent of any domestic life insurance company's proportionate share of the cost of equity securities and the outstanding principal balance of debt securities which constitute qualified investments of the Capital Resource Company as of the last day of the previous taxable year; provided, however, that such life insurance company is an equal opportunity employer and makes available annually to the Massachusetts commission against discrimination copies of its reports to the federal equal employment opportunity commission. As used in this section, each such company's "proportionate share" shall be a fraction, the numerator of which is the amount of its aggregate contributed capital in the Capital Resource Company and the denominator of which is the amount of the aggregate cumulative investment in the Capital Resource Company as of the last day of such taxable year.

SECTION 5. Section 13 of said chapter 816 is hereby further amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) Upon the organization of the Capital Resource Company as provided herein and throughout the period contained in section 14 of this act, the terms of the limited partnership agreement shall at all times be consistent with the certificate and this act; provided, however, that amendments to the certificate may be submitted to the commissioner for approval as provided in the case of the original certificate, pursuant to subsection (b) which shall, after such approval, be filed with the state secretary; and provided further, that if the partners elect to continue the Capital Resource Company beyond the 45 year period contained in subsection (b) of section 14, submission to and approval by said commissioner shall not be required prior to the filing of any amended certificate with the state secretary.

SECTION 6. Said chapter 816 is hereby further amended by striking out section 14 and inserting in place thereof the following section:-

Section 14. The certificate referred to in subsection (b) of section 13 shall contain the following provisions, restrictions and limitations:

(a) The character of the partnership business shall consist of the investment and reinvestment of partnership assets exclusively in debt and equity securities conforming to the investment criteria set forth in sections 15 and 16.

(b) Except as specified in this subsection, the Capital Resource Company shall be subject to the provisions of this act for a period of not less than 45 years from the date of its

organization. The Capital Resource Company may, at its election, choose to no longer be subject to the provisions of this act by filing a certificate to such effect with the commissioner and the state secretary (i) at any time after expiration of such 45 year period, or (ii) at any time in the event there has been a statutory amendment which results in an increase in the total level of direct taxes paid by domestic life insurance companies to the commonwealth, which increase is other than attributable to business growth and other than a proportional part of a general increase in the taxation of business in the commonwealth.

(c) Funds shall be provided to the partnership only in cash, and the amount so provided by each partner in such partner's capacity as a general partner shall be stated separately from any amounts provided by such partner as a limited partner.

(d) At least 25 per cent of the capital funds of the partnership shall be provided by life insurance companies acting in their capacity as general partners, the balance shall be provided by such companies in their capacity as limited partners.

(e) No distribution constituting a return of capital contributed by a person as a general partner shall be made prior to the filing of the certificate referred to in subsection (b). Prior to the fortieth anniversary of the organization, no distribution from the Capital Resource Company to the partners shall be permitted other than distributions of partnership net earnings. After such fortieth anniversary, in addition to such distribution of net earnings, distributions of capital contributions shall be allowed but shall not exceed 5 per cent per annum of the aggregate cumulative investment made prior to such fortieth anniversary of the organization of the Capital Resource Company, provided that on or after the forty-sixth anniversary of the organization of said initiative, the remaining capital may be distributed to the participating life companies.

(f) The general partners may from time to time admit additional domestic life insurance companies as partners.

(g) Upon such terms and conditions as are necessary to assure compliance with the public purpose set out in section 1, the Capital Resource Company may form one or more wholly owned subsidiaries through which funds of the Capital Resource Company may be invested; provided, however, that such subsidiary shall be subject to all appropriate provisions of this act consistent, in the case of any subsidiary which is a small business investment company, with requirements of federal law.

(h) With the prior written approval of the commissioner and upon such terms and conditions as may be deemed necessary to assure compliance with the public purpose set out in section 1, to assure the continuation of the Capital Resource Company and to assure the continuation of the investment policies and restrictions set forth in this act, the Capital Resource Company may incorporate under chapter 156B or may be formed under chapter 156C of the General Laws.

The Capital Resource Company may enter into one or more agreements with the life initiative, or the P&C initiative, or any part thereof, pursuant to which the Capital Resource Company would provide management, advisory, consultative and other incidental services to such life initiative, or such P&C initiative, regarding its business affairs and which enable

such life and P&C initiatives to comply with the provisions of this act. The Capital Resource Company may enter into one or more agreements whereby it would receive management, advisory, consulting and other incidental services regarding its business.

SECTION 7. The commissioner of revenue shall promulgate regulations necessary to carry out the provisions of this act. Such regulations shall include, but shall not be limited to, situations involving mergers, acquisitions, divestitures or reorganizations or any other corporate restructuring that impact the ability of a company to comply with the provisions of this act.

SECTION 8. Sections 22B, 22C and 22D of chapter 63 of the General Laws, shall not apply when the aggregate cumulative investment by domestic life insurance companies in the life initiative reaches \$100,000,000, such aggregate amount to be certified by the commissioner of revenue, or the tax year 2004, whichever is later.

SECTION 9. Section 22A of said chapter 63 shall not apply when the aggregate cumulative investment by domestic property and casualty companies in the P&C initiative reaches \$100,000,000, such aggregate amount to be certified by the commissioner of revenue, or the tax year 2004, whichever is later.

SECTION 10. Section 1 of this act shall become effective for the tax years beginning after the date on which the aggregate cumulative investment by domestic property and casualty companies in the Massachusetts property and casualty company community investment initiative reaches \$100,000,000.

Approved August 10, 1998.

Chapter 260. AN ACT MAKING CERTAIN APPROPRIATIONS AND TRANSFERS FOR FISCAL YEAR 1998.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to make appropriations and transfers for fiscal year 1998 and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations and to meet certain requirements of law, the sums set forth herein are hereby appropriated from the general fund for the several purposes and subject to the conditions specified herein and subject to the provisions of law regulating the disbursement of public funds.

SECTION 2.

Board of Higher Education.

7077-1000 For the tomorrow's teachers program established pursuant to section 19D of chapter 15A of the General Laws; provided, that no funds shall be expended from this item until the board of higher education promulgates the guidelines required pursuant to said section 19D of said chapter 15A. . . . \$3,000,000

SECTION 2A. For the purpose of making available in fiscal year 1999 balances of appropriations which otherwise would revert on June 30, 1998, the unexpended balance of the maintenance appropriation listed below, not to exceed the amount specified for the item below, is hereby re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section 2. The amount in this section is re-appropriated from the fund designated for the corresponding item in said section 2. The sum re-appropriated herein shall be in addition to any amounts available for said purposes.

Board of Higher Education.

7077-1000 3,000,000

SECTION 3. Chapter 10 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after section 35R the following section:-

Section 35S. There shall be established and set up on the books of the commonwealth a separate fund, to be administered by the commissioner of education, which shall be known as the Teacher Quality Endowment Fund. Said fund shall consist of all revenues from public and private sources as appropriations, gifts, grants, donations and from the federal government as reimbursements, grants-in-aid or other receipts to further the purposes of said fund in accordance with the provisions of sections 19B and 19C of chapter 15A. All revenues credited to said fund under this section shall remain in said fund and shall be expended without further appropriation for applications pursuant to said sections 19B and 19C of said chapter 15A. The state treasurer shall deposit and invest monies in said fund in accordance with the provisions of sections 34, 34A and 38 of chapter 29 in such a manner as to secure the highest rate of return available consistent with the safety of the fund. Said fund shall be expended only for the purposes stated in said sections 19B and 19C of said chapter 15A at the direction of the commissioner of education. The state treasurer shall structure expenditures from said fund to ensure that not less than \$60,000,000 or the total dollar value of funds appropriated or transferred into said fund by the general court, whichever is greater, remains in said fund at all times. On February 1 of each year, the state treasurer shall notify the commissioner of education of the projected investment earnings available for expenditure from said fund for the upcoming fiscal year. Not more than 50 per cent of the projected investment earnings of said fund shall be expended for the purposes stated in said section 19C of said chapter 15A in each fiscal year.

SECTION 4. Chapter 15A of the General Laws, as so appearing, is hereby amended by inserting after section 19A the following three sections:-

Section 19B. There shall be an incoming teacher signing bonus program to be ad-

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ministered by the department of education for the purpose of encouraging the best and brightest candidates to teach in the public schools. The goal of such program shall be to encourage high achieving candidates to enter the profession who would otherwise not consider a career in teaching. Funding for such program shall be subject to the provisions of section 35S of chapter 10.

The board of education shall promulgate regulations, where necessary, for the effective implementation of such program. Such regulations shall include the following provisions:

(1) On an annual basis, the department of education shall select the best and brightest teaching prospects based on objective measures such as test scores, grade point average or class rank and such other criteria as the department may determine. The department shall establish a system for receiving a limited number of recommendations for outstanding candidates for such bonuses from institutions of higher education across the nation. In selecting bonus recipients, the department shall consider such recommendations.

(2) In a given year, the department may target awards to attract teachers for those subject matter areas most needed in the commonwealth; provided, however, that such subject matter areas shall be included in the core subjects as described in section 1D of chapter 69.

(3) In a given year, the department shall award bonuses only to those deserving candidates rather than providing a set number of bonuses.

(4) Recipients shall receive a \$20,000 signing bonus over at least three years with at least \$8,000 distributed in the first year of the bonus.

(5) Such recipients shall be eligible for each year's bonus payment only if they are certified to teach in the commonwealth and are employed as a teacher by a public school in the commonwealth.

(6) The department shall select and notify bonus recipients by April 1 of each year. Eligible recipients shall receive their annual bonus payments by the subsequent October 1 of each year.

(7) The name of an individual recipient of such bonus shall remain confidential unless recipient waives such confidentiality in writing.

(8) The department shall aggressively market the existence of the program to encourage the best and brightest candidates in the nation to come to the commonwealth to teach. Such marketing shall focus on candidates who would otherwise not consider a career in teaching.

(9) The program shall set forth an outreach plan to attract underrepresented populations to the teaching profession.

Section 19C. There shall be Massachusetts master teacher corps program for the purpose of building a group of recognized teachers of high achievement in the profession who shall serve to mentor incoming apprentice teachers and further the goals of the education reform act, so-called. The department of education shall administer this program. Funding for said program shall be subject to the provisions of section 35S of chapter 10.

The board of education shall promulgate regulations, where necessary, for the effec-

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tive implementation of such program. Such regulations shall include the following provisions:

(1) The department may select master teachers who achieve master teacher status through certification from the National Board for Professional Teaching Standards, pass a challenging content test, and agree to mentor apprentice teachers. The department may develop and include alternatives to the NBPTS program provided such alternatives maintain equivalent or higher standards of excellence in teaching.

(2) The department may provide master teachers with partial or full reimbursement for the assessment costs of said NBPTS certification. The department shall provide master teachers with ongoing salary bonuses for such master teachers. Such ongoing salary bonuses shall be limited to \$5,000 per year. Within said \$5,000 limit, the department may authorize a nominal payment to the school district of such master teachers to facilitate time for the master teacher to engage in mentoring activity.

(3) Teachers with master teacher status shall have full parity in certification and compensation with teachers who earn a master's degrees from approved higher education institutions, notwithstanding the provisions of section 38G of chapter 71, or chapter 150E.

(4) The program shall set forth an outreach plan to attract underrepresented populations to the teaching profession.

Section 19D. There shall be a scholarship program to be administered by the board of higher education, which shall be known as the tomorrow's teachers program, for the purpose of encouraging outstanding high school students to teach in the public schools by providing qualified high school students with scholarships for tuition and fees for a four-year bachelor's degree program at a public college or university in the commonwealth. The program shall be subject to appropriation.

The board of higher education shall promulgate guidelines governing the tomorrow's teachers program. The guidelines shall include the following provisions:

(1) Eligibility for the program shall be limited to students who graduated in the top quarter of their high school classes, who agree to complete a four-year bachelor's degree program in a public college or university in the commonwealth and who commit to and actually teach for four years in a public school in the commonwealth upon successful completion of a bachelor's degree from the college or university and the appropriate certification in accordance with said section 38G of said chapter 71.

(2) The program shall set forth an outreach plan to attract underrepresented populations to the teaching profession.

(3) Persons who participate in the program but do not complete their college education within six years of entering college or who fail to complete their four-year teaching commitment within six years following graduation from college shall be obligated to repay the commonwealth the tuition and fees advanced to them, with interest, as determined by the board of higher education.

SECTION 5. The department of education shall develop and submit to the joint committee on education not later than December 31, 1998, the so-called "12-62 Plan for

Strengthening Massachusetts Future Teaching Force." Such plan may include such legislative, regulatory, financial and other policy initiatives necessary as to attract, train, retain, mentor and develop out top teachers into masters of their profession; provided, that a schedule of projected costs and funding sources therefor shall accompany each such initiative that said department proposes in such plan.

One goal of the plan shall be to attract the best and brightest individuals in the nation to teach in the commonwealth's public schools. Elements of the plan may include: (1) establishing so-called "Future Teachers of America Clubs" in every middle and high school to excite students of diverse backgrounds about the nobility of the teaching profession; (2) implementing the program of signing bonuses for the best and brightest new teachers established by section 19B of chapter 15A of the General Laws; (3) enhancing the Attracting Excellence to Teaching Program to increase the loan forgiveness packages to the best and brightest college graduates; (4) implementing the program funded in item 7077-1000 of this act which provides scholarships at state colleges and universities to top performing high school students who commit to a career in teaching; and (5) taking such actions as may be necessary to remove costly and time-consuming barriers and create greater flexibility to entry into teaching and to full certification.

A further goal of the plan shall be to establish a professional life cycle for teachers. Elements of the plan may include: (1) implementing the Massachusetts master teacher corps program established by section 19C of chapter 15A of the General Laws; (2) establishing a low cost district based certification path for apprentice teachers who are mentored by master teachers; (3) amending the recertification regulations to ensure that all educators retain mastery of their subject matter and are held accountable to the highest standards of professional performance; and (4) making such changes as may be necessary to the statutes, regulations and operations of the teachers' retirement board to encourage school districts to provide teachers who are entering the profession, re-entering the profession, or scaling back their time commitment to the profession with opportunities for part-time and job-sharing arrangements.

SECTION 6. Notwithstanding the provisions of any general or special law to the contrary, the state treasurer shall credit and transfer \$60,000,000 from the general fund to the Teacher Quality Endowment Fund established pursuant to the provisions of section 35S of chapter 10 of the General Laws as of June 30, 1998; provided, however, that the general court may make supplemental transfers, appropriations or deposits into said Teacher Quality Endowment Fund in future fiscal years; provided, further, that no funds shall be expended from the teacher quality endowment fund until the board of education promulgates regulations pursuant to sections 19B and 19C of chapter 15A.

SECTION 6A. Except for emergency regulations adopted pursuant to section 2 of chapter 30A, any regulation as defined in section 1 of said chapter 30A or any amendment or repeal of any such regulation adopted by the board of education pursuant to this act, shall, after compliance with all applicable provisions of said chapter 30A, except section 5, be submitted to the general court. Said board shall file the proposed regulation, amendment or

repeal with the clerk of the house of representatives, together with a statement that the pertinent provisions of said chapter 30A, except section 5, have been complied with. The clerk of the house of representatives, with the approval of the president of the senate and the speaker of the house of representatives, shall refer such regulations to the joint committee on education, arts and humanities. Within 30 days after such referral, said committee may hold a public hearing on the regulations and shall issue a report to said board. Said report shall contain any proposed changes to the regulations voted upon by the committee. The board shall review said report and shall adopt final regulations as deemed appropriate in view of said report and shall file with the chairmen of said education, arts and humanities committee its final regulations. If the final regulations do not contain the changes proposed by the committee, the board shall send a letter to the committee accompanying the final regulations stating the reasons why such proposed changes were not adopted. Not earlier than 45 days after the filing of such letter and final regulations with the said committee, said board shall file the final regulations with the state secretary as provided in section 5 of said chapter 30A and said regulations shall thereupon take effect.

If no such proposed changes to the regulations are made to the board within 60 days of the initial filing of the proposed regulation or any amendment or a repeal of such regulation with the clerk of the house of representatives, the board may file the final regulations with the state secretary as provided in section 5 of said chapter 30A and said regulations shall thereupon take effect.

SECTION 7. Notwithstanding the provisions of any general or special law to the contrary, the state treasurer shall credit and transfer \$200,000,000 from the general fund to the Tax Reduction Fund established in section 2I of chapter 29 of the General Laws as of June 30, 1998. Nothing herein shall be construed to prohibit the transfer of further fiscal year 1998 revenue from the general fund to said Tax Reduction Fund pursuant to the statutory plan contained in said chapter 29. Notwithstanding the provisions of said section 2I of said chapter 29 or any other general or special law to the contrary, said \$200,000,000, plus any interest which has accumulated in said Tax Reduction Fund, is hereby immediately appropriated for the purpose of implementing, and the commissioner of the department of revenue shall implement, a temporary increase in the amounts of the personal exemption allowable on the income tax for the taxable year ending December 31, 1998; provided, however, that such temporary increase shall be structured so that the tax reduction authorized by this section shall not exceed, in the aggregate, the positive remaining balance in said Tax Reduction Fund on December 31, 1998.

SECTION 8. Notwithstanding the provisions of sections 2H, 2I, 5, 5B and 5C of chapter 29 of the General Laws or any other general or special law to the contrary, the state treasurer shall credit and transfer not less than \$150,000,000 from the general fund to the Commonwealth Stabilization Fund as of June 30, 1998. Nothing herein shall be construed to prohibit the transfer of further fiscal year 1998 revenue from the general fund to the Commonwealth Stabilization Fund pursuant to the statutory plan contained in said sections 2H, 2I, 5, 5B and 5C of said chapter 29.

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SECTION 9. Notwithstanding the provisions of any general or special law to the contrary, an additional \$62,869,462 in revenues derived from the state lottery shall be distributed to the cities and towns as additional lottery revenues in accordance with the schedule listed below.

Abington	155,465
Acton	108,053
Acushnet	115,405
Adams	141,464
Agawam	290,871
Alford	993
Amesbury	170,904
Amherst	642,130
Andover	170,544
Arlington	338,633
Ashburnham	69,384
Ashby	36,934
Ashfield	13,969
Ashland	98,170
Athol	200,171
Attleboro	474,773
Auburn	141,232
Avon	26,327
Ayer	48,971
Barnstable	200,569
Barre	64,682
Becket	6,679
Bedford	67,223
Belchertown	125,887
Bellingham	129,427
Belmont	133,169
Berkley	55,211
Berlin	15,932
Bernardston	20,802
Beverly	338,939
Billerica	365,039
Blackstone	112,571
Blandford	9,333
Bolton	18,307
Boston	5,155,465
Bourne	102,889
Boxborough	23,381

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Boxford	35,629
Boylston	25,438
Braintree	249,067
Brewster	40,375
Bridgewater	284,241
Brimfield	32,413
Brockton	1,451,221
Brookfield	42,031
Brookline	293,838
Buckland	23,969
Burlington	140,098
Cambridge	701,105
Canton	128,314
Carlisle	19,766
Carver	136,152
Charlemont	13,283
Charlton	136,008
Chatham	12,863
Chelmsford	283,370
Chelsea	434,807
Cheshire	43,733
Chester	15,288
Chesterfield	9,309
Chiopee	804,389
Chilmark	383
Clarksburg	26,146
Clinton	172,406
Cohasset	35,086
Colrain	18,749
Concord	72,521
Conway	13,734
Cummington	6,010
Dalton	83,950
Danvers	153,120
Dartmouth	202,508
Dedham	175,732
Deerfield	41,627
Dennis	48,641
Dighton	56,540
Douglas	68,956
Dover	17,303
Dracut	330,048

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Dudley	124,967
Dunstable	17,568
Duxbury	80,264
East Bridgewater	123,773
East Brookfield	19,893
East Longmeadow	111,018
Eastham	13,325
Easthampton	196,267
Easton	187,204
Edgartown	4,782
Egremont	4,581
Erving	6,503
Essex	21,122
Everett	296,526
Fairhaven	162,968
Fall River	1,517,530
Falmouth	123,743
Fitchburg	610,991
Florida	5,536
Foxborough	118,841
Framingham	541,719
Franklin	202,179
Freetown	79,976
Gardner	365,333
Gay Head	133
Georgetown	59,112
Gill	19,872
Gloucester	216,173
Goshen	6,257
Gosnold	52
Grafton	139,625
Granby	66,206
Granville	13,360
Great Barrington	58,865
Greenfield	228,076
Groton	66,972
Groveland	51,435
Hadley	27,300
Halifax	77,015
Hamilton	49,262
Hampden	43,643
Hancock	2,815

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Hanover	82,962
Hanson	100,580
Hardwick	26,675
Harvard	128,092
Harwich	40,258
Hatfield	20,303
Haverhill	706,329
Hawley	1,788
Heath	6,055
Hingham	106,113
Hinsdale	19,457
Holbrook	129,349
Holden	146,292
Holland	17,138
Holliston	103,506
Holyoke	775,497
Hopedale	64,255
Hopkinton	59,024
Hubbardston	33,562
Hudson	164,654
Hull	99,502
Huntington	25,510
Ipswich	83,039
Kingston	80,665
Lakeville	68,586
Lancaster	71,246
Lanesborough	20,297
Lawrence	1,891,805
Lee	46,345
Leicester	137,703
Lenox	30,813
Leominster	457,028
Leverett	15,386
Lexington	122,681
Leyden	7,573
Lincoln	43,370
Littleton	48,152
Longmeadow	108,407
Lowell	1,862,415
Ludlow	221,803
Lunenburg	96,321
Lynn	1,335,639

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Lynnfield	62,351
Malden	717,001
Manchester	18,614
Mansfield	142,143
Marblehead	102,153
Marion	20,940
Marlborough	274,254
Marshfield	172,846
Mashpee	37,435
Mattapoisett	29,563
Maynard	97,534
Medfield	67,538
Medford	580,640
Medway	92,566
Melrose	250,195
Mendon	36,838
Merrimac	66,031
Methuen	465,770
Middleborough	201,291
Middlefield	3,310
Middleton	27,934
Milford	248,918
Millbury	139,528
Millis	71,311
Millville	31,075
Milton	195,991
Monroe	203
Monson	96,320
Montague	96,299
Monterey	2,195
Montgomery	7,361
Mount Washington	445
Nahant	23,782
Nantucket	7,028
Natick	191,006
Needham	134,432
New Ashford	871
New Bedford	1,619,492
New Braintree	10,974
New Marlborough	3,988
New Salem	6,283
Newbury	43,389

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Newburyport	127,826
Newton	436,379
Norfolk	93,197
North Adams	286,607
North Andover	167,990
North Attleborough	262,686
North Brookfield	64,480
North Reading	84,472
Northampton	302,685
Northborough	90,049
Northbridge	172,861
Northfield	31,584
Norton	174,106
Norwell	51,902
Norwood	202,009
Oak Bluffs	6,838
Oakham	16,132
Orange	126,955
Orleans	15,491
Otis	2,760
Oxford	178,373
Palmer	145,053
Paxton	39,544
Peabody	369,265
Pelham	11,725
Pembroke	142,178
Pepperell	117,709
Peru	10,720
Petersham	9,343
Phillipston	19,301
Pittsfield	580,006
Plainfield	4,071
Plainville	71,541
Plymouth	389,556
Plympton	22,484
Princeton	26,696
Provincetown	11,683
Quincy	837,727
Randolph	329,920
Raynham	82,314
Reading	166,457
Rehoboth	71,647

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Revere	551,244
Richmond	8,863
Rochester	35,254
Rockland	188,204
Rockport	42,637
Rowe	558
Rowley	42,453
Royalston	12,584
Russell	19,117
Rutland	63,691
Salem	360,314
Salisbury	50,329
Sandisfield	2,512
Sandwich	113,234
Saugus	190,560
Savoy	8,276
Scituate	105,718
Seekonk	90,946
Sharon	113,984
Sheffield	18,533
Shelburne	16,665
Sherborn	15,171
Shirley	109,536
Shrewsbury	197,924
Shutesbury	14,013
Somerset	115,860
Somerville	904,097
South Hadley	194,028
Southampton	45,213
Southborough	33,767
Southbridge	264,629
Southwick	82,278
Spencer	150,964
Springfield	2,898,555
Sterling	61,518
Stockbridge	7,626
Stoneham	184,083
Stoughton	268,021
Stow	34,779
Sturbridge	72,225
Sudbury	66,926
Sunderland	41,786

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Sutton	64,609
Swampscott	89,880
Swansea	142,444
Taunton	632,435
Templeton	89,333
Tewksbury	244,244
Tisbury	8,350
Tolland	512
Topsfield	34,359
Townsend	105,967
Truro	2,486
Tyngsborough	94,581
Tyringham	938
Upton	37,718
Uxbridge	128,758
Wakefield	197,582
Wales	21,869
Walpole	160,433
Waltham	427,660
Ware	131,642
Wareham	173,383
Warren	60,351
Warwick	5,553
Washington	5,265
Watertown	241,075
Wayland	56,192
Webster	199,765
Wellesley	99,618
Wellfleet	5,463
Wendell	10,425
Wenham	28,668
West Boylston	57,327
West Bridgewater	45,085
West Brookfield	39,020
West Newbury	24,661
West Springfield	272,733
West Stockbridge	9,114
West Tisbury	3,360
Westborough	86,734
Westfield	464,544
Westford	118,966
Westhampton	11,174

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Westminster	58,655
Weston	28,268
Westport	90,953
Westwood	62,103
Weymouth	578,737
Whately	8,078
Whitman	175,439
Wilbraham	98,301
Williamsburg	24,278
Williamstown	67,327
Wilmington	116,498
Winchendon	141,916
Winchester	100,813
Windsor	6,618
Winthrop	214,874
Woburn	262,764
Worcester	2,699,139
Worthington	9,713
Wrentham	84,207
Yarmouth	116,648

SECTION 10. This act shall take effect as of June 30, 1998.

This bill was returned on August 10, 1998, by the Lieutenant Governor-Acting Governor to the Senate, the branch in which said bill was originated, with his objections in writing to the following item therein:

Item Disapproved: SECTION 6A

The remainder of the bill was approved by the Lieutenant Governor-Acting Governor on August 10, 1998 at two o'clock and fifty-five minutes, P.M.

Chapter 261. AN ACT RELATIVE TO CERTAIN PENSION BENEFITS OF MARY E. MUISE.

Be it enacted, etc., as follows:

Notwithstanding the provisions of chapter 230 of the acts of 1972, upon the death of retired police officer Peter Muise, the city of Boston shall pay to his widow, Mary E. Muise, for so long as she lives and remains unmarried, an annuity equal to three-fourths the amount of the pension payable to him, per month at the time of his death. If said Mary E. Muise remarries, said city of Boston shall pay, in lieu of the aforesaid annuity to her, an annuity of \$520 per month.

Approved August 10, 1998.

**Chapter 262. AN ACT RELATIVE TO CERTAIN CONTRACTING PROCEDURES
IN THE CITY OF BOSTON.**

Be it enacted, etc., as follows:

SECTION 1. Section 6 of chapter 418 of the acts of 1890 is hereby amended by striking out the first sentence, as most recently amended by section 1 of chapter 373 of the acts of 1992, and inserting in place thereof the following sentence:- All contracts made by any department of the city of Boston or by any officer, board or official of the county of Suffolk having power to incur obligations on behalf of said county in cases where said obligations are to be paid for wholly from the treasury of said city, shall, when the amount involved is \$10,000 or more, or when the contract comes within section 30 of chapter 486 of the acts of 1909, be in writing; and no such contract shall be deemed to have been made or executed until the approval of the mayor of said city has been affixed thereto in writing and the auditor of said city has certified thereon that an appropriation is available therefor or has cited thereon the statute under authority of which the contract is being executed without an appropriation.

SECTION 2. Section 24 of chapter 486 of the acts of 1909 is hereby repealed.

SECTION 3. This act shall take effect upon its passage.

Approved August 10, 1998.

**Chapter 263. AN ACT AUTHORIZING FRANKLIN REGIONAL COUNCIL OF
GOVERNMENTS TO CONVEY CERTAIN LAND IN THE TOWN OF
WHATELY.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to immediately authorize the conveyance of certain land, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The Franklin Regional Council of Governments may convey a certain parcel of land located in the town of Whately, presently used for open space and recreational purposes, to the town of Whately, for nominal consideration, to be used for recreational purposes. Said parcel is shown as parcel 1 on a plan of land entitled "Plan of Land in Whately (Franklin Co.) MA" prepared by C. T. Male Associates, P. C., of Greenfield, Massachusetts which is on file in the offices of said Franklin Regional Council of Governments. The precise configuration of said parcel may be established by a subsequent land survey. Said Franklin Regional Council of Governments may release for nominal consideration, any other property interests it holds in the property to be conveyed to the town of Whately hereunder.

SECTION 2. The Franklin Regional Council of Governments may convey two parcels of land located in the town of Whately, presently used for open space and recreational

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purposes, to the commonwealth, for nominal consideration to be used for recreational purposes. Said conveyance shall include a right of way for access to said parcels. Said Franklin Regional Council of Governments are hereby further authorized to release, for nominal consideration, any other property interests it holds in the property to be conveyed to the commonwealth of Massachusetts hereunder. Said land shall be placed under the care and control of the department of environmental management. Said parcels are shown as parcels 2 and 3 on the plan of land described in section 1.

SECTION 3. Notwithstanding the provisions of subsection (f) of section 567 of chapter 151 of the acts of 1996 or any other general or special law to the contrary, the town of Whately may release, for nominal consideration, any leasehold or other property interests it holds in the property to be conveyed to the commonwealth hereunder.

Approved August 10, 1998.

Chapter 264. AN ACT PROVIDING FOR AN INCREASE IN THE REQUIREMENTS FOR NOMINATION AS A CANDIDATE FOR ELECTIVE OFFICE IN THE CITY OF MALDEN.

Be it enacted, etc., as follows:

SECTION 1. Chapter 169 of the acts of 1881 is hereby amended by striking out section 4 and inserting in place thereof the following section:-

Section 4. All candidates for election to municipal office shall be nominated in accordance with the requirements of chapter 53 of the General Laws; provided, however, nomination papers of candidates for the office of ward councillor shall be signed in the aggregate by not less than 50 voters qualified to vote in said ward in the next municipal election; provided, further, nomination papers for candidates for mayor, school committee and councillor-at-large shall be signed in the aggregate by not less than 200 persons qualified to vote in the next municipal election.

SECTION 2. Section 2 of chapter 550 of the acts of 1955 is hereby repealed.

SECTION 3. This act shall be submitted to the voters of the city of Malden at the regular municipal election to be held in the year 1999 in the form of the following question which shall be placed on the official ballot to be used for the election of city officers at said election "Shall an act passed by the general court in the year 1998 entitled, 'An Act providing for an increase in the requirements for nomination as a candidate for elective office in the city of Malden', be accepted?"

If a majority of the votes cast in answer to said question is in the affirmative, this act shall take effect, but not otherwise.

Approved August 10, 1998.

Chapter 265. AN ACT AUTHORIZING THE RELEASE OF CERTAIN EASEMENTS IN THE CITY OF WORCESTER.

Be it enacted, etc., as follows:

The city of Worcester is hereby authorized to release a portion of a conservation/park land easement consisting of approximately 252,566 square feet previously acquired by said city by an order of taking recorded with the Worcester district registry of deeds in Book 17560, Page 97. Said portion of the conservation/park land easement to be released is shown on a plan of land entitled "Amended Plan of Easements in Worcester, MA.," prepared by Daylor Consulting Group, and dated August 25, 1997, to be recorded with the Worcester district registry of deeds.

Approved August 10, 1998.

Chapter 266. AN ACT RELATIVE TO THE MASSACHUSETTS GOVERNMENT LAND BANK REGARDING THE DEVENS ENTERPRISE COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 12 of chapter 498 of the acts of 1993 is hereby amended by adding the following sentence:- For purposes of chapter 40D of the General Laws, Devens shall be deemed a municipality and, until July 1, 2033, the bank shall be deemed the industrial development financing authority for Devens.

SECTION 2. Said section 12 of said chapter 498 is hereby further amended by inserting after the first paragraph the following paragraph:-

Until July 1, 2033, the bank shall have the authority to promulgate reasonable regulations to maintain the public health, welfare and safety of the residents of Devens including, but not limited to, regulations concerning the use of motor vehicles and parking; provided, however, that such rules and regulations shall be promulgated pursuant to the provisions of sections 2 to 7, inclusive, of chapter 30A of the General Laws; provided, further, that the bank shall be deemed to be an agency for purposes of said sections 2 to 7, inclusive; provided further, that the maximum penalty for violation of such regulations shall be \$500 for each offense; provided, further, that any such penalties collected by the bank shall be deposited in a separate account which shall be available for expenditure by the bank for the operation of Devens so long as the bank submits a report to the house and senate committees on ways and means on the first day of each quarter as to the source and amount of the deposits to said account and the purpose and amount of any expenditures from said account; and provided, further, that such regulations shall be enforceable in the courts to the same extent and in the same manner as other agency regulations or municipal by-laws.

SECTION 3. Section 13 of said chapter 498 is hereby amended by adding the following paragraph:-

Any design, construction, reconstruction, or modification of the Devens wastewater treatment facilities and sewage system at Devens may be carried out in its own name and right or may be contracted by it, in whole or in part, with any other public or any private party. After a competitive process which, among other things, takes into consideration price, qualifications, and performance goals and which is consistent with the competitive procurement rules established by the board of directors of the bank, the bank may enter into contracts, not to exceed 30 years in duration, with any public or private party relating to any development or redevelopment of the Devens wastewater treatment and sewerage system, and which may provide for payments by the bank which are guaranteed as to amount or duration, with or without regard to whether any particular service or utility is provided, constructed or undertaken, or, if provided, constructed or undertaken to make available for the purposes thereof such buildings, structures, utility systems, including pipes, drains, pumping stations, conduits, wires, cables, and similar ancillary installations, and other works as may be required for the redevelopment of such wastewater treatment and sewage system. The provisions of any general or special law or regulation relating to the advertising, bidding, or award of contracts, to the procurement of services or to the construction and design of such improvements, shall not be applicable to any contract or work entered into or undertaken pursuant to this section for the development or redevelopment of said system at Devens except that the provisions of sections 26 to 27H, inclusive, of chapter 149 of the General Laws shall be applicable and in any contract which requires or permits any contracting party to independently undertake to provide any public building or public work required for the wastewater treatment facilities and sewage system at Devens, the bank shall require such contracting party to comply with the provisions of said sections 26 to 27H, inclusive; provided, however, that no such contract shall be or constitute an obligation of the commonwealth beyond any amount appropriated therefor; and provided, further, that the provision of services or other works contemplated thereby shall remain subject to all provisions of law and regulation intended to regulate the provision of such services or works, including, but not limited to, all laws and regulations relating to the protection of the environment and all public health laws and regulations.

SECTION 4. All actions directly taken by the Massachusetts government land bank or through the Devens commerce center established by said bank to prepare, publish, receive responses under and conduct evaluations of responses and commence preliminary negotiations with certain responders to the request for statements of qualification and expressions of interest for purchase or lease, management, operation, and maintenance, of the Devens wastewater treatment facilities and sewage system, dated October 25, 1996, are validated and confirmed and, under and pursuant to this act the Massachusetts government land bank is authorized to continue and to bring to completion the procurement process represented thereby.

Approved August 10, 1998.

Chapter 267. AN ACT PROVIDING FOR A FOUR YEAR TERM FOR THE OFFICE OF MAYOR OF THE CITY OF MALDEN COMMENCING IN THE YEAR 2000.

Be it enacted, etc., as follows:

SECTION 1. Chapter 169 of the acts of 1881 is hereby amended by striking out section 7 and inserting in place thereof the following section:-

Section 7. The mayor shall be chosen by the qualified voters of the city at large, voting in their respective wards and shall hold office for the four municipal years next following his election and until another has been chosen and qualified in his place. The municipal year shall commence on the first Monday in January.

SECTION 2. Section 9 of said chapter 169, as most recently amended by chapter 374 of the acts of 1959, is hereby further amended by striking out the first sentence and inserting in place thereof the following two sentences:- On the first Tuesday after the first Monday in November in each odd numbered year the qualified voters of the several wards shall give in their votes by ballot for city councillors and school committee in accordance with the provisions of law. On the first Tuesday after the first Monday in each alternate odd numbered year the qualified voters of the several wards shall give in their votes by ballot for mayor in accordance with the provisions of law.

SECTION 3. Section 1 of chapter 155 of the acts of 1933, as most recently amended by chapter 85 of the acts of 1952, is hereby further amended by striking out, in line 3, the word "mayor".

SECTION 4. Section 2 of said chapter 155 is hereby repealed.

SECTION 5. This act shall be submitted to the voters of the city of Malden at the regular municipal election to be held in the year 1999 in the form of the following question which shall be placed on the official ballot to be used for the election of city officers at said election: "Shall an act passed by the general court in the year 1998, entitled 'An Act providing for a four year term for the office of mayor of the city of Malden commencing in the year 2000', be accepted?"

If a majority of the votes cast in answer to said question is in the affirmative, this act shall take effect, but not otherwise.

Approved August 10, 1998.

Chapter 268. AN ACT RELATIVE TO THE LIABILITY OF CERTAIN LAND-OWNERS.

Be it enacted, etc., as follows:

Chapter 21 of the General Laws is hereby amended by striking out section 17C, as appearing in the 1996 Official Edition, and inserting in place thereof the following section:-

Section 17C. (a) Any person having an interest in land including the structures, build-

ings, and equipment attached to the land, including without limitation, wetlands, rivers, streams, ponds, lakes, and other bodies of water, who lawfully permits the public to use such land for recreational, conservation, scientific, educational, environmental, ecological, research, religious, or charitable purposes without imposing a charge or fee therefor, or who leases such land for said purposes to the commonwealth or any political subdivision thereof or to any nonprofit corporation, trust or association, shall not be liable for personal injuries or property damage sustained by such members of the public, including without limitation a minor, while on said land in the absence of wilful, wanton, or reckless conduct by such person. Such permission shall not confer upon any member of the public using said land, including without limitation a minor, the status of an invitee or licensee to whom any duty would be owed by said person.

(b) The liability of any person who imposes a charge or fee for the use of his land by the public for the purposes described in subsection (a) shall not be limited by any provision of this section. The term "person" as used in this section shall be deemed to include the person having an interest in the land, his agent, manager, or licensee and shall include without limitation, any governmental body, agency or instrumentality, nonprofit corporation, trust or association, and any director, officer, trustee, member, employee or agent thereof. A contribution or other voluntary payment not required to be made to use such land shall not be considered a charge or fee within the meaning of this section.

Approved August 10, 1998.

Chapter 269. AN ACT AUTHORIZING LONG TERM LEASES FOR OFFICES FOR THE DEPARTMENT OF PUBLIC HEALTH IN THE DUDLEY SQUARE AREA OF THE CITY OF BOSTON.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith certain long term leases for offices of the department of public health, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital planning and operations, in consultation with the department of public health, may, notwithstanding the first through the fifth paragraphs, but subject to the sixth paragraph of section 40G of chapter 7 of the General Laws, and subject to the provisions of this act, negotiate and enter into a lease or leases for a term not to exceed 20 years; provided, however, that said commissioner may exercise, prior to the end of said lease or leases, an option to extend said lease or leases for an additional term of not more than ten years, and any further such extension of said lease or leases shall require the prior approval of the general court, for all or any portion of such

land, buildings, and improvements as may be selected by said commissioner pursuant to sections 40E to 40F½, inclusive, said sixth paragraph of said section 40G, and sections 40H to 40L, inclusive, of said chapter 7 and section 3 of this act; and provided further, that said leased premises shall be located in the Dudley Square economic redevelopment district in the city of Boston. Said district, delineated by the Boston redevelopment authority, includes all the land, buildings and improvements bounded on the northeast by Melnea Cass Boulevard between Harrison and Shawmut Avenues; on the southwest by St. James Street between Warren and Washington Streets; on the northeast by Shawmut Avenue through Shawmut Avenue to Shawmut Avenue Extension through to Washington Street between Melnea Cass Boulevard and St. James Street, which district is in the Dudley Square area of the city of Boston. Also included in said district shall be the land, buildings and improvements adjacent to, but outside of said boundaries, as well as all of the land, buildings and improvements within said boundaries.

The leased premises shall be for use by the department of public health primarily as offices in the city of Boston.

SECTION 2. The leases authorized by this act shall include the following terms and conditions: (a) that the lease shall be subject to appropriation of adequate funds annually by the legislature, and to authorization for expenditure of said funds annually by the secretary of administration and finance; (b) that the total occupancy cost, including rent and all other charges, paid by the commonwealth under the lease shall not exceed \$25 per usable square foot of space for the first five years of the term and thereafter said cost may increase to reflect any actual increase in operating expenses for the leased premises, excluding capital improvements; (c) that the lease shall include, and shall not be executed without attachment of, final plans and specifications of such renovations and improvements to the leased premises and the building in which they are located, as are necessary for their use by the department of public health, which plans and specifications shall be at 100 per cent design stage, ready for construction, and which renovations and improvements shall be acceptable to the commissioners of the division of capital planning and operations and the department of public health; (d) that the lease shall require the landlord to construct said renovations and improvements prior to the commonwealth's occupancy of the leased premises and commencement of the lease term; (e) that the landlord shall be responsible for the design and construction of all such renovations and improvements and for the condition of the leased premises and the building in which they are located, notwithstanding any review, approval or oversight of the same or of any plans or specifications by the commonwealth; (f) that the lease shall require the landlord to keep the leased premises and the building in which they are located in good condition throughout the term, including by making repairs and replacements, and to establish and maintain adequate capital reserves for such purposes; (g) that any contributions made by the commonwealth to capital reserves or expenditures shall not apply to the initial construction of improvements and renovations under the lease, and must be amortized over the full useful life of any repairs, replacements or improvements to which such contributions are applied, with the commonwealth paying not more than its proportionate share annually

based on the number of years remaining in the term of the lease; and (h) that the lease shall contain such other terms as shall be required by the commissioner. This authorization to enter into said leases is subject to the provision by the city of Boston of such funding to the landlords of the properties in which the leased premises are located as may be necessary to cover the landlords' development costs, including improvements, renovations, and transaction costs, and profit, in the event that said costs exceed \$25 per usable square foot of space. In no event shall any payments made by the commonwealth be used to repay such funding by the city of Boston to the landlords.

SECTION 3. The construction, renovation, design, development, and management of the leased premises and the buildings in which they are located as authorized by this act, and any contract relating thereto, shall be exempt from the provisions of sections 38A½ to 40D, inclusive, of chapter 7, sections 44A to 44J, inclusive, of chapter 149, section 39M of chapter 30 of the General Laws, and any other general or special law or regulation governing construction, renovation, design, development, and management of real or personal property by or for the commonwealth. Notwithstanding the foregoing, all contractors and subcontractors engaged in the construction or renovation of improvements at the property shall pay prevailing wages under sections 26 to 27H, inclusive, of said chapter 149 and the leases authorized hereunder shall be subject to sections 40E to 40F½, inclusive, and sections 40H to 40L, inclusive, of said chapter 7.

SECTION 4. The lessors to any lease authorized by this act shall pay for all surveys, plans and specifications, peer review and oversight by architects and engineers hired by the division of capital planning and operations in connection with such lessor's design and construction, and for all other costs and expenses associated with the renovations and improvements to the leased premises and the buildings in which they are located as are required under the leases. Such lessor shall also pay for all costs and expenses associated with the leasing process and negotiations, as required by the commissioner. Such lessor shall be responsible for, and shall indemnify the commonwealth from and against, all costs and liabilities associated with the environmental condition of the properties in which the leased premises are located.

Approved August 10, 1998.

Chapter 270. AN ACT RELATIVE TO A CERTAIN EASEMENT IN THE TOWN OF WILMINGTON.

Be it enacted, etc., as follows:

The town of Wilmington, acting by and through its board of selectmen and conservation commission, may convey an easement over certain conservation land to Dorothy Sullivan and Joseph M. Sullivan to construct, operate, maintain, and use a driveway as laid out on a plan entitled "Plan of Land in Wilmington, Mass. Showing Proposed Easement Over

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Land of the town of Wilmington", dated September 3, 1997, drawn by Merrimack Engineering Services, which is on file with said conservation commission of said town of Wilmington.

Approved August 10, 1998.

Chapter 271. AN ACT RELATIVE TO CERTAIN STATE LAND IN THE TOWN OF NORTH READING AND THE TOWN OF WILMINGTON.

Be it enacted, etc., as follows:

SECTION 1. As used in this act, the following words shall, unless the content clearly indicates otherwise, have the following meanings:-

"Commissioner", the commissioner of the division of capital asset management and maintenance.

"Committee", the J. T. Berry reuse committee.

"Developer", the entity or entities, to which the commissioner may convey all or part of the commonwealth's interest in the property located at the John T. Berry Rehabilitation Center.

"Division", the division of capital asset management and maintenance.

"J. T. Berry center" or "site", all land owned by the commonwealth as of January 1, 1998 located upon the John T. Berry Rehabilitation center located in the towns of North Reading and Wilmington.

SECTION 2. The commissioner of the division of capital asset management and maintenance is hereby authorized and directed, subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, to convey by deed, approved as to form by the attorney general, or to lease for a period not to exceed 99 years, all or parts of the commonwealth's interest in all or portions of the land and buildings located at the J. T. Berry center to a developer or developers, selected in accordance with the provisions of this act. Said land is shown on a "Plan of Land in North Reading owned by the Commonwealth of Massachusetts", dated September 2, 1992, prepared by Robert E. Anderson, Inc., which plan is on file with said division. Said deeds and leases shall be consistent with the policies set forth in this act.

SECTION 3. Within 90 days of the effective date of this act, the division of capital asset management and maintenance shall issue a Memorandum of Agreement between said division and the towns of North Reading and Wilmington concerning the reuse of the site. Said division shall negotiate the terms of said agreement with the town administrator of the town of North Reading and the town manager of the town of Wilmington with the advice of the state senator and state representatives representing said towns of North Reading and Wilmington in the general court. Said agreement shall incorporate the requirements of existing zoning regulations and the provisions of this act, including, but not limited to, a commit-

ment by said division to undertake predevelopment studies of the site, to resurvey the site, to fund site assessment sufficiently to adequately determine the nature and extent of oil or hazardous materials on the site and the cost of remediation, in accordance with applicable laws and regulations and to market the site to potential developers; provided, however, that said agreement shall exclude the use of any portion of the site for an incinerator, landfill, or other means of permanent disposal of solid or hazardous waste, house of correction, jail or prison. Said agreement shall include a timetable within which said division shall complete said surveys, evaluations and assessments of oil and hazardous materials.

SECTION 4. Within 180 days following the approval of the Memorandum of Agreement and pursuant to sections 40E to 40J, inclusive, of chapter 7 of the General Laws, the commissioner of the division of capital asset management and maintenance shall issue requests for proposals for the reuse of all or a portion of the site. Said requests for proposals shall be based on the provisions of the Memorandum of Agreement and this act, and shall include, but not be limited to, the following:-

(a) the time and date for receipt of proposals, the address of the office to which the proposals are to be delivered, and the maximum time for proposal acceptance by the division;

(b) a description of the property offered;

(c) a description of evaluation criteria that will be utilized for the evaluation of proposals, together with a statement that evaluations shall be based solely on the criteria set forth in the request for proposals;

(d) a list of all items or categories of information which must be included in each development proposal, and a format for submitting such information.

SECTION 5. The commissioner of the division of capital asset management and maintenance shall, 90 days before the execution of any land disposition agreement authorized by section 3 or any subsequent amendment thereto, submit the land disposition agreement or amendment and a report thereon to the inspector general who shall review and comment upon said land disposition agreement or amendment within 15 days of the receipt thereof. Said commissioner shall submit the land disposition agreement and any subsequent amendments thereto, the reports, and the comments of said inspector general, if any, to the house and senate committees on ways and means, the committee on state administration, the house and senate committees on post audit and oversight, the J. T. Berry reuse committee, and the state senator and state representatives representing said towns of North Reading and Wilmington in the general court at least 75 days prior to execution. Said land disposition agreement shall include conditions adopted in the Memorandum of Agreement including, but not limited to, the provision that the developer or developers consult with the J. T. Berry reuse committee during the planning, development, construction and management of said development on a schedule established by said committee.

SECTION 6. Within 30 days of the effective date of this act, there shall be established a J. T. Berry reuse committee, hereinafter referred to as the committee, to consist of not more than 13 members to be appointed by the division of capital asset management and maintenance, in consultation with state and local officials; provided, however, that one

member shall be a member of the Wilmington board of selectmen or its designee, one member shall be the town manager for the town of Wilmington or his designee, one member shall be the town administrator for the town of North Reading or his designee, one member shall be the planning director for the town of North Reading or his designee, one member shall be a member of the North Reading Community planning commission or its designee, one member shall be from the North Reading Business Association, and the remaining members shall be residents of the town of North Reading, the names of whom shall be submitted by the town administrator to the commissioner of said division. The state senator and state representatives representing said towns of North Reading and Wilmington in the general court shall serve as ex-officio, nonvoting members of the committee. Said committee may review, comment and make recommendations concerning the implementation of the Memorandum of Agreement.

SECTION 7. The commissioner of the division of capital asset management and maintenance is hereby authorized to retain or grant rights of way or easements for access, egress, utilities and drainage across property described in section 2 and across other commonwealth property contiguous to said property, and the commonwealth may accept from the developer rights of way or easements in roadways or across property to be conveyed by deed or leased pursuant to said section 2 for purposes of access, egress, drainage and utilities.

SECTION 8. The amount of consideration for the sales, lease, sublease, granting of easements or other conveyances authorized by the provisions of this act shall be equal to the fair market value of any portion thereof, as established by taking the averaged appraised fair market value from three independent appraisals from three independent appraisers selected by the commissioner of the division of capital asset management and maintenance throughout the competitive bidding process and with a methodology approved by the inspector general. Said commissioner shall, in like manner, conduct an appraisal of such property, or any portion thereof, every ten years to determine the current fair market value; provided, however, that such appraisal shall not include any privately constructed building thereon. Any subsequent sale, lease, sublease or other conveyance shall be adjusted based upon subsequent appraisals. Consideration for parcels within the site, portions thereof, easements, or other conveyances at less than fair market value shall be allowed if said commissioner, in consultation with the J. T. Berry reuse committee, determines that a direct public benefit is provided to the citizens of the commonwealth and approves such lesser consideration; provided, however, that if said commissioner selects a developer who did not offer the highest price, said commissioner shall include a justification for such decision in the notification required by section 40H of chapter 7 of the General Laws. Said commissioner shall maintain a written record in reasonable detail of evaluations and negotiations undertaken pursuant to this act and shall retain such record with the proposals in accordance with said section 40H. All funds derived from the sale, lease, sublease, granting of easements or other conveyances related to parcels within the site shall be credited to the General Fund.

Approved August 10, 1998.

**Chapter 272. AN ACT AUTHORIZING THE REGISTRAR OF MOTOR VEHICLES
TO UPDATE ADDRESS INFORMATION.**

Be it enacted, etc., as follows:

Chapter 90 of the General Laws is hereby amended by striking out section 26A, as appearing in the 1996 Official Edition, and inserting in place thereof the following section:-

Section 26A. (a) A person in whose name a motor vehicle or trailer has been registered under the provisions of this chapter and a person to whom a learner's permit or a license to operate motor vehicles has been granted by the registrar shall report a change of name, residential address or mailing address in writing to said registrar within 30 days after the date on which any such change was made. Said registrar may revoke or suspend the license or certificate of registration or learner's permit of a person violating the provisions of this subsection.

(b) Said registrar may use reasonable sources of information regarding addresses including, but not limited to, municipal excise records, insurance company records and United States Post Office change of address records to update address information contained in registry records and such updated records shall constitute the official records of said registrar for purpose of giving any notice as provided in this chapter or for any other purpose. If the registrar obtains information from the department of revenue, he shall have access only to individuals' names and addresses.

(c) Said registrar shall not be required to mail a notice pursuant to this chapter to more than one address; provided, however, that such address was obtained pursuant to subsection (a) or (b).

Approved August 10, 1998.

**Chapter 273. AN ACT AUTHORIZING THE DENNIS WATER DISTRICT TO
CONVEY AN EASEMENT OVER CERTAIN PARCELS OF LAND
TO THE TOWN OF DENNIS.**

Be it enacted, etc., as follows:

SECTION 1. The Dennis Water District is hereby authorized to convey to the town of Dennis an easement for purposes of a public town way over a portion of watershed protection and groundwater recharge land located in said town as shown on a plan of land entitled "Easement Plan of Land in South Dennis, Massachusetts, Relocation of Hemlock Lane and Bellgrove Road", dated October 2, 1997, revised November 20, 1997, prepared by Demarest-McLellan Engineering, West Dennis, MA.

SECTION 2. This act shall take effect upon its passage.

Approved August 10, 1998.

Chapter 274. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO GRANT INTERESTS IN CERTAIN LAND TO THE TOWN OF FRANKLIN.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital asset management and maintenance is hereby authorized, notwithstanding the provisions of sections 40F to 40I, inclusive, of chapter 7 of the General Laws, to grant a lease, for a term of 50 years with an option for additional terms of 25 years, to the town of Franklin for the purpose of laying, installing, constructing, maintaining, repairing, replacing and operating a public water supply and water supply distribution system, and to allow access and utilities to the land area necessary therefor, on land now under the care and control of the department of environmental management as part of the Franklin state forest and dedicated to conservation and recreation uses. Said land to be subject to the lease and is shown as parcel 6, parcel 8 and parcel 9 on a plan of land entitled "Plan of Well No. 11 In Franklin, Mass." prepared by the Norfolk county engineering department, dated October 10, 1996; provided, however, that said plan may be subsequently revised by said commissioner after consultation with the department of environmental management. Said commissioner is hereby further authorized to grant temporary rights to said town of Franklin in addition to the leased area for construction of the improvements authorized by this section. Said lease shall be subject to the requirements of sections 2 to 5, inclusive, and to such other terms and conditions as said commissioner may prescribe in consultation with said department of environmental management.

SECTION 2. No instrument purporting to convey on behalf of the commonwealth the property interest described in section 1 shall be valid unless the instrument provides that the property interest shall be used solely for the purposes of laying, installing, constructing, maintaining, repairing, replacing and operating a public water supply and water supply distribution system and a means of access thereto.

SECTION 3. If construction or installation of the improvements for the purposes described in section 2 are not begun within five years from the effective date of this act, or if the uses of said improvements or the replacement thereof for the purposes authorized by this act cease at any time thereafter, all property interests shall revert to the commonwealth, upon notice by, under terms and conditions prescribed by, the commissioner of capital asset management and maintenance in consultation with the commissioner of environmental management, except for the town of Franklin's property interests in any improvements, equipment, structures, buildings or personal property, which property shall remain the property of said town of Franklin and shall be removed from the parcel of land described in section 1 by said town within 180 days of such cessation, and the land subject to the lease hereby authorized shall return to the care and custody of the department of environmental management to be managed as part of Franklin state forest.

SECTION 4. The town of Franklin shall assume the costs of any appraisals, surveys and other expenses deemed necessary by the commissioner of capital planning and opera-

tions for the lease and for all liabilities and expenses associated with the easement area and improvements thereto. Said town of Franklin shall additionally comply with the provisions of the law regarding environmental protection, shall fully implement the water conservation standards for the commonwealth as approved by the water resources commission in October, 1992, shall provide to the department of environmental management operating plans sufficient to demonstrate that there will be no significant adverse environmental impacts as a result of the proposed withdrawal of water, specifically on the natural functioning or on the normal level of any stream, aquifer, pond, lake or woodland, and on fish or other aquatic wildlife or their habitats, and shall install underground all lines, conduits, wires and other appurtenances for provision of electricity and other utilities to and on the land to be subject to the lease authorized in section 1.

SECTION 5. In consideration for the lease hereby authorized, the town of Franklin shall provide reasonable compensation. Compensation shall include, but not be limited to, a \$225,000 monetary contribution by said town of Franklin toward acquisition by the department of environmental management of a parcel of land deemed suitable by said department for conservation and recreation purposes, which amount may be deposited in a special account established for that purpose; provision of at least 15 parking spaces at the summit of Forge hill on land currently owned by said town, to be available without charge to all visitors to Franklin state forest; conveyance to the commonwealth for use by the department of environmental management of two parcels of land immediately abutting said state forest, one part of Buck Hill Estates Subdivision, so-called, and one part of Prospect Heights Subdivision, so-called, to the department of environmental management for nominal consideration; and, improvements to the public boat ramp at Beaver pond in accordance with the terms of a memorandum of understanding entered into by said department of environmental management and said town.

SECTION 6. The commissioner of the division of capital asset management and maintenance is hereby further authorized, notwithstanding the provisions of sections 40F to 40I, inclusive, of chapter 7 of the General Laws, to convey in fee to the town of Franklin a parcel of land located in said town of Franklin, now under the care and control of the department of environmental management for conservation and recreation purposes, described in section 7, reserving from the conveyance a permanent easement in said parcel for the purpose of access and egress by the commonwealth and the general public to and from other land of the commonwealth.

SECTION 7. The parcel of land to be conveyed by section 6 is shown as parcel 3 on a plan of land entitled "Plan Showing The Layout Of Panther way In Franklin, Mass." prepared by the Norfolk county engineering department, dated May 12, 1992, recorded with the Norfolk county registry of deeds as No. 564 in Plan Book 408.

SECTION 8. In consideration for the conveyance to the town of Franklin, said town of Franklin shall convey to the commonwealth, a permanent easement inasmuch of said Panther way shown as parcels 1, 2 and 4 on said plan as may be necessary in the judgment of the commissioner after consultation with the department of environmental management

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for the purpose of access and egress by the commonwealth and the general public to and from other land of the commonwealth located adjacent to said Panther way.

SECTION 9. The town of Franklin shall assume sole responsibility for maintenance, repair and upkeep of those portions of Panther way owned by said town or conveyed to said town as hereby authorized, and no responsibility shall remain with or be assumed by the commonwealth.

Approved August 10, 1998.

Chapter 275. AN ACT PROVIDING FOR THE LEASE OF COMMONWEALTH LAND IN THE CITY OF QUINCY.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital asset management and maintenance, in consultation with the metropolitan district commission, is hereby authorized, notwithstanding the provisions of sections 40E to 40I, inclusive, of chapter 7 of the General Laws, to execute and deliver in the name of and on behalf of the commonwealth, subject to the terms and conditions as determined by the commissioner of said division in consultation with said commission, one or more instruments to lease for a term or terms of up to 50 years including extensions to the Athletes Reaching Out Foundation, a nonprofit organization, certain parcels of commonwealth land, as are more specially described in section 2, currently under the care and control of said commission and used for open space and recreation purposes. Such terms and conditions shall include the execution by the foundation of an agreement with, and acceptable to the commission, and separate from the lease agreement, providing the metropolitan district commission with oversight rights concerning the use of said parcels and approval rights concerning improvements made to said parcels in order to protect the public recreational purposes of them.

The lease price to be paid by the foundation for said parcels shall be the full and fair market value of said land for use as public recreational space, taking into account the public benefits provided by the foundation and the use and affordability restrictions in section 3, as determined by the commissioner based upon one or more independent professional appraisals commissioned by said division; provided that the commissioner may determine that less than fair market value may be paid by the foundation based upon the benefits to the public provided by the foundation's use, improvement, and operation of the parcels. The inspector general shall review and approve said appraisal, and said review and approval shall include an examination of the methodology utilized for said appraisal. Said commissioner shall, 30 days prior to the execution of any lease or agreement authorized by this act or any subsequent amendment thereof, submit said lease, agreement, or amendment and a report thereon to said inspector general. Said inspector general shall prepare a report of his review and approval of said appraisal, lease, agreement, or amendment and file said report with said commis-

sioner, and copies of the same shall be filed with the house and senate committees on ways and means and the chairmen of the joint committee on state administration at least 15 days prior to said execution.

The lease price paid by the foundation for any lease, agreement, or amendment thereof authorized by this act shall be deposited in the general fund of the commonwealth. Said commissioner, in consultation with the commission, shall approve any subleasing and concession operations on said parcels. All money generated by any such sublease or concession shall be used solely for the purpose described in section 3.

SECTION 2. The parcels referred to in section 1 comprise an approximately 12-acre portion of the land shown on the city of Quincy assessor's map number 4126A, Lot 3D, Plot 63; and map number 4126B Lot 4, Plot 7; Plot 8; Lot 5, Plot 6; Lot 5, Plot 5; Lot 7, Plot 4; Lot 8, Plot 3; Lot 9, Plot 2; Lot 10, Plot 1, provided that the boundaries of said parcels shall be more particularly determined by the commissioner of the division of capital asset management and maintenance, in consultation with the metropolitan district commission, following the preparation of a survey. Said commissioner is hereby authorized notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the General Laws to convey such easements for utilities, drainage, access and egress over other commonwealth land as may be necessary or convenient to serve the parcels to be leased hereunder.

SECTION 3. The parcels referred to in section 1 shall be used only for public recreational purposes, and in compliance with the agreement referred to in section 1 providing for the oversight and approval by the metropolitan district commission, provided that said foundation is hereby authorized, notwithstanding chapters 30B and 149 of the General Laws or any other laws governing public design or construction procurement, to construct, reconstruct, repair, replace and operate a replica of Fenway Park for recreational use on such terms and conditions as will ensure affordable use thereof by the public and compliance with said agreement. The transactions authorized hereunder shall be subject to a requirement that the performance of, and payment for, improvements to the parcels shall be fully covered by bonds issued by bonding companies authorized to issue bonds in the commonwealth.

SECTION 4. The Athletes Reaching Out Foundation shall be responsible for all costs associated with any appraisal, survey, or other expense incurred by the commonwealth relating to the transfer of said parcels, and for any costs, liabilities, or expenses of any kind for the development, improvement, maintenance, or operation of said parcels as may be determined by the commissioner of the division of capital asset management and maintenance in consultation with the commission.

SECTION 5. In the event the parcels of lands described in section 2 cease to be used at any time for the purposes contained herein, said parcels shall revert to the commonwealth under the care and control of the metropolitan district commission and any further disposition of said parcels shall be subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws and must have prior approval of the general court. In such event, the foundation shall continue to be responsible for all liabilities associated with the

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improvements to said parcels during the period of said foundation's interests in the parcels, and for all liabilities associated with the condition, use, improvements, operation and management of said parcels during said period.

Approved August 10, 1998.

Chapter 276. AN ACT REQUIRING CERTAIN INSTRUCTIONS IN THE PUBLIC SCHOOLS OF THE COMMONWEALTH.

Be it enacted, etc., as follows:

The board of education shall formulate recommendations on curricular material on genocide and human rights issues, and guidelines for the teaching of such material. Said material and guidelines may include, but shall not be limited to, the period of the transatlantic slave trade and the middle passage, the great hunger period in Ireland, the Armenian genocide, the holocaust and the Mussolini fascist regime and other recognized human rights violations and genocides. In formulating these recommendations, the board shall consult with practicing teachers, principals, superintendents, and curricular coordinators in the commonwealth, as well as experts knowledgeable in genocide and human rights issues. Said recommendations shall be available to all school districts in the commonwealth on an advisory basis, and shall be filed with the clerk of the house of representatives, the clerk of the senate, and the house and senate chairmen of the joint committee on education, arts, and humanities not later than March 1, 1999.

Approved August 10, 1998.

Chapter 277. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY CERTAIN PROPERTY LOCATED IN THE TOWN OF WAKEFIELD TO THE OWNER OF AN ABUTTING PARCEL.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital planning and operations may, subject to the provisions of sections 40E to 40J , inclusive, of chapter 7 of the General Laws, except as otherwise provided in this act, convey approximately 1,528 square feet of land owned by the commonwealth and located on the southerly side of Lowell street at the junction of Vernon street in the town of Wakefield, to the owner of the property fronting said land, being known as 383 - 413 Lowell street. Said land shall be more precisely described by the commissioner based on the records in the Middlesex county registry of deeds or registry district of the land court, or on a survey, as said commissioner may determine.

SECTION 2. The consideration paid by the purchaser for the parcel set forth in section 1 shall be the full and fair market value of the property determined by the commissioner of the division of capital planning and operations based on an independent appraisal.

SECTION 3. The purchaser of the parcel set forth in section 1 shall assume all costs of appraisals, surveys, deed preparation and other expenses related to the conveyance of this property as the commissioner of the division of capital planning and operations may determine to be necessary, and shall be responsible for all costs and liabilities of its condition, ownership, and operation.

Approved August 10, 1998.

Chapter 278. AN ACT AUTHORIZING THE SIMULTANEOUS LAND EXCHANGE OF CERTAIN PARCELS OF LAND BETWEEN THE TOWN OF PROVINCETOWN, THE COMMONWEALTH AND THE UNITED STATES OF AMERICA.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith an exchange of land between the town of Provincetown, the commonwealth and the United States, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of the division of capital planning and operations is hereby authorized and directed, in the name of and on behalf of the commonwealth, to convey to the United States of America, by and through the National Park Service, by deed, a parcel of land located in the town of Provincetown, presently under the control of the Massachusetts highway department being used for highway purposes, said land being described in section 2. The consideration for such conveyance shall be \$1.00.

SECTION 2. The parcel of land to be conveyed under the provisions of section 1 is described as follows:

The parcel of land known as "Site 4" which is a portion of the Route 6 right-of-way owned by the commonwealth by and through the Massachusetts highway department, containing 11.157 acres, more or less, as shown on a plan entitled "Plan of Land in Provincetown delineating a Proposed Land Swap as prepared for Commonwealth of Massachusetts" dated July, 1996 prepared by William N. Rogers, P.E., P.L.S., Off Cemetery Road, Provincetown, Mass., said plan to be recorded with the Barnstable registry of deeds.

Said parcel was acquired by the commonwealth for highway purposes under the

authority of and in accordance with the provisions of section 7E of chapter 81 of the General Laws on September 8, 1953 and is a portion of the parcel shown in Massachusetts Highway Layout in Provincetown, Layout 4070, Roll L-36, Frame 55.

SECTION 3. Such deed conveying the property described in section 2 by or on behalf of the commonwealth shall be executed and delivered to the United States of America only upon simultaneous execution and delivery by the United States of America of a deed to the town of Provincetown conveying a parcel of land located in said town of Provincetown, presently under the control of the National Park Service, being used as part of the Cape Cod National Seashore, said land being described in section 4. The consideration for such conveyance shall be \$1.00.

The deed conveying the property described in said section 2 shall not be executed and delivered to the United States of America unless such deed provides that said property shall be used only for the purposes and subject to the conditions set forth in chapter 777 of the acts of 1962.

SECTION 4. The land to be conveyed to the town of Provincetown under the provisions of section 3 is described as follows:

The parcel of land known as "Site 9", so called, the Provincetown Sanitary Landfill site, which is a portion of land owned by the United States of America, by and through its National Park Service, containing approximately 7.62 acres, more or less, including the locus of the temporary solid waste transfer and recycling facility, + 5.92 acres, together with the layout of the existing access road, + 1.7 acres, between said facility and the property now or formerly owned by Miriam A. Collinson on Race Point road, all as shown on a plan entitled "Proposed Land Acquisition Located in Provincetown, Mass." dated September 29, 1994, revised April 3, 1996, prepared by Joseph J. Borgesi, P.E., a copy of which is on file in the office of the Provincetown town clerk; and to be more particularly described and platted by a Massachusetts registered land surveyor, said plan to be recorded with the Barnstable registry of deeds.

Said parcel was acquired by the United States of America, by and through its National Park Service, as part of the Cape Cod National Seashore from the commonwealth under the authority of and in accordance with the provisions of chapter 777 of the acts of 1962 and is recorded in the Barnstable county registry of deeds, in Book 1361, Page 1165.

The use of the lands to be conveyed to the town of Provincetown shall be subject to the following deed restrictions:

The operation and maintenance of the site of the transfer station and recycling facilities, hereinafter referred to as the transfer station site, shall be conducted in accordance with all maps, permits, environmental requirements, licenses, and approved operating plans, as set forth in 36 Code of Federal Regulations Part 6 pertaining to Solid Waste Sites in Units of the National Park System; the Massachusetts solid waste regulations, 310 CMR 19.00, issued by the Massachusetts department of environmental protection; and applicable local law, including amendments to such laws or regulations issued after the date of this conveyance. In the event of a conflict between a requirement of the National Park Service and a require-

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ment of state law or regulation, the more stringent shall prevail.

Use of the transfer station site shall be restricted to waste management activities and other public-serving municipal purposes. Upon cessation of such activities, all structures shall be removed and the site shall be restored and revegetated.

The town of Provincetown shall plant and maintain a vegetation screen both on and off the transfer station site to shield activities from view from the road and from adjacent developments.

Prior to said town's altering (1) the scope of said town's solid waste transfer or recycling programs at the transfer station site, (2) the number or capacity of facilities or utilities, or (3) any construction or improvement, said town shall consult with the Superintendent of the Cape Cod National Seashore to achieve concurrence.

If traffic congestion at the transfer station site causes vehicle back-ups on the access road affecting Race Point road, said town shall respond immediately to public safety concerns and shall devise a long-term remedy to eliminate the adverse effects of noise, vehicle emissions, and traffic.

No structure on the site shall exceed 22 feet above the contours as per as-built drawings of the transfer station existing as of the date of the conveyance, subject to a visual analysis.

Said town shall notify the Superintendent promptly if any archeological resource or historical object is discovered at the transfer station site and shall take all appropriate actions necessary to protect such resources or objects.

Said Superintendent and other National Park Service representatives may enter the transfer station site during normal business hours for any purpose related to the administration of the aforesaid deed restrictions and at any time for purposes related to emergency, law enforcement, or public resource or public safety concerns.

In the event of a disagreement, a binding dispute resolution process may be sought using mediators or other alternative dispute resolution procedures.

SECTION 5. The restriction on the use of the lands conveyed by the commonwealth to the United States of America as set forth in Condition No. 8 of the deed recorded in Book 1361, Page 1162 with the Barnstable county registry of deeds or in subparagraph (4) of section 4 of chapter 777 of the acts of 1962, is hereby waived and released for the parcel described in section 4 of this act.

Approved August 10, 1998.

Chapter 279. AN ACT RELATIVE TO THE DISPOSITION OF DANVERS STATE HOSPITAL.

Be it enacted, etc., as follows:

Chapter 180 of the acts of 1997 is hereby amended by inserting after section 10 the following section:-

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Section 10A. Notwithstanding the provisions of chapter 7 of the General Laws, the commissioner is hereby authorized to convey any or all interest in any portion of the Danvers State Hospital disposition site to the town of Danvers if said portion is within said town, and to the town of Middleton if said portion is within said town for access, egress, drainage, utilities, water supply and recreational facilities.

Approved August 10, 1998.

Chapter 280. AN ACT RELATIVE TO HIRING WOMEN ON STATE CONSTRUCTION PROJECTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the hiring of women on state construction projects, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. As used in this act, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Commissioner", the commissioner of the division of capital asset management and maintenance.

"Commonwealth" or "state", any state authority or state agency as defined by section 1 of chapter 40 of the General Laws, or a corporation established by the commonwealth that essentially provides a public function.

"Construction trades", shall include, but not be limited to, bricklayers, carpenters, cement masons, electricians, ironworkers, laborers, operating engineers, pipefitters, plumbers, sheetmetal workers.

"Disparity studies", the disparity studies conducted by the commonwealth's Phase I transportation entities in 1995, by the city of Boston, the Boston Housing Authority and the Boston water and sewer commission in 1994, by the Massachusetts Water Resources Authority in 1990, and by the Massachusetts commission against discrimination in 1990.

"Division", the division of capital asset management and maintenance.

"Secretaries", the secretary of the executive office of administration and finance and the secretary of the executive office of transportation and construction.

SECTION 2. The secretaries or their designees, shall develop and implement, to the extent possible under the constitutions and laws of the United States and the commonwealth and the disparity studies, a comprehensive plan to eliminate discrimination against and to increase the number of female construction workers at state construction projects. The plan shall identify its objectives and describe how its provisions are narrowly tailored to achieve its objectives.

The secretaries or their designees in developing such plan shall also establish goals for women's participation in state funded contracts which are based on the broadest and most inclusive pool of available women capable of performing and interested in working in the construction trades. Said goals shall be expressed as overall annual program goals, applicable to the total dollar amount of contracts an agency of the commonwealth may award during each fiscal year. To the extent permissible under the constitutions and laws of the United States and the commonwealth and the disparity studies, said goals shall establish a minimum per cent of participation on state funded construction projects; provided however, that said minimum per cent of participation may be increased pursuant to section 3 of this act.

Said goals shall provide that in the employment of any female journeymen and apprentices in construction trades, the contractor or subcontractor shall give preference first to female citizens of the commonwealth who have served in the armed forces of the United States in time of war and have been honorably discharged therefrom or released from active duty therein, and who are qualified to perform the work to which the employment relates, and secondly, to female citizens of the commonwealth generally and who are qualified to perform the work to which the employment relates, and, if such cannot be obtained in sufficient numbers, then to female citizens of the United States and who are qualified to perform the work to which the employment relates.

Said plan and goals shall be established no later than 90 days after the effective date of this act and shall be reviewed and revised, as necessary, each fiscal year thereafter.

Said plan and goals, once established, shall be transmitted to the house and senate clerks who shall forward the same to the house and senate committees on ways and means and the joint committee on state administration.

SECTION 3. The secretaries, in compliance with the plan, shall develop the contract specifications, terms, conditions, and language and shall take the administrative steps necessary to carry out the purpose of this act.

Prior to the commencement of any construction project, capital works, or state economic development plan covered by this act and in compliance with the plan established by the secretaries, the construction agencies under their jurisdiction shall review spending plans for such project and identify the number of job positions to be created by the project.

The secretaries shall also be responsible for the enforcement and monitoring of compliance with the provisions of this section which shall include, but not be limited to, the following:

(1) requiring all contractors and subcontractors to prepare staffing tables on a quarterly basis; which shall be broken down in projections, by week, of workers required in each trade. Said tables shall be furnished at least one week in advance of the commencement of the period covered, and also when updated, shall be furnished to the division, commission, and the liaison committee; provided, however that subcontractors with six or fewer employees shall only be required to submit the updated staffing titles required by this section. Said tables shall be available for inspection by any interested party filing a written request to the secretaries for such inspection;

(2) requiring all contractors and subcontractors affected by this section to submit weekly workforce charts listing workers by name, craft, job category, hours worked, and sex to the secretaries, division, commission, and liaison committee. Said charts shall be available for inspection by any interested party filing a written request to the secretaries for such inspection;

(3) registering all interested organizations and notify any such organizations of any pre-award conferences between the agency and developer or contractor relating to hiring requirements and goals as required by this section.

To the extent permissible under the constitutions and laws of the United States and the commonwealth and the disparity studies, the secretaries shall reserve the minimum per cent of jobs for women in the construction trades for those agencies within their jurisdiction, in compliance with the plan established by the secretaries, except, where permitted, that a greater percentage may be reserved to reflect the percentage of the female population within the standard metropolitan statistical or labor market area in which the capital facility is located; to reflect the numbers of females available to perform work on a project or to achieve the specific annual dollar value reserved for females in the construction trades; if any such construction project subject to this section is located within a political subdivision that requires a higher per cent of women in the construction trades for a project involving that political subdivision's funding, approval, oversight, management or to be a signatory to a contract, then that higher percentage shall be required on any construction project subject to the provisions of this section.

The secretaries or their designees, shall have the power by means of contract provisions, consistent with due process requirements to the extent applicable, to impose sanctions upon contractors and subcontractors found to be in non-compliance with this section as follows:

- (1) suspension of payments;
- (2) termination of contract;
- (3) recovery by the commonwealth of the contract award price as liquidated damages;

or

- (4) denial of the right to participate in future projects for a maximum of three years.

The secretaries shall by March 15 of each year submit to the Massachusetts commission against discrimination, to the clerks of the house and the senate who shall forward the same to the house and senate committees on ways and means and the joint committee on state administration, a report describing the number of contracts and subcontracts awarded by the agencies within their jurisdiction which shall contain such information as to the percentage of women in the construction trades employed on the contract within the preceding calendar year. The report shall, at a minimum, show the name and address of each such contractor or subcontractor, the contract, or subcontract price, a description of the work performed on such contract by class of work and project type, and shall show separately the total number of contracts awarded and the total number of women employed in the construction trades as a percentage of the total number of individuals employed in that trade.

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SECTION 4. The secretaries shall conduct a study of the utilization of female workers in the construction trades on state construction projects. The secretaries shall file the results of the study with the house and senate committees on ways and means on or before March 15, 1999. The secretaries shall revise the plan established pursuant to section 2 if appropriate and warranted by said study.

Approved August 10, 1998.

Chapter 281. AN ACT RELATIVE TO NOMINATION PAPERS.

Be it enacted, etc., as follows:

Section 44 of chapter 53 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the fourth and fifth sentences.

Approved August 10, 1998.

Chapter 282. AN ACT CERTIFYING PROVISIONAL EMPLOYEES AND PROVISIONAL PROMOTEES WITHIN THE CITY OF BOSTON AS PERMANENT EMPLOYEES.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the personnel administrator shall certify any active employee who served in a civil service position in the city of Boston as a provisional or provisional promotion employee for a period of at least six months immediately prior to January 1, 1998, to permanent civil service status in that position.

Approved August 10, 1998.

Chapter 283. AN ACT RELATIVE TO REVERSE MORTGAGE LOANS.

Be it enacted, etc., as follows:

SECTION 1. Subsection (B) of section 2 of chapter 167E of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out paragraph 14A and inserting in place thereof the following paragraph:-

14A. *Reverse Mortgage Loans.* A reverse mortgage loan, pursuant to the provisions of any program for reverse mortgage loans which has been submitted to and approved by the commissioner, to the owner of real estate improved with a dwelling designed to be occupied

by not more than four families; provided, however, that each such owner shall be at least 60 years of age and shall occupy the mortgaged real estate in whole or in part; and provided further, that a person shall be deemed to be the owner of real estate notwithstanding that legal title thereto is held in the name of a trust if said person is the beneficiary of such trust.

For the purposes of this paragraph, a reverse mortgage loan shall not be considered a residential mortgage transaction, as defined in section 1 of chapter 140D or any other transaction specified in subsection (e) of section 10 of said chapter 140D. The notices and rights contained herein shall be in addition to the disclosure and rights provided for in said chapter 140D, including the right of rescission set forth in said section 10 of said chapter 140D.

The proceeds from a reverse mortgage loan shall be disbursed to the borrower, pursuant to the provisions of such program, and together with unpaid interest, if any, shall become due and payable: (i) at the end of a fixed term, if any; (ii) upon the death of the borrower; (iii) upon the conveyance of title to the mortgaged real estate; (iv) upon such borrower ceasing to occupy such real estate as a principal dwelling; or (v) upon default by the borrower in the performance of its obligations under the loan agreement.

The commissioner shall not approve any program for reverse mortgage loans which does not include the following:

(1) the type of loan, whether open-end or closed and whether a recourse or non-recourse loan;

(2) an applicant for any such loan shall not be bound for seven days after his acceptance, in writing, of the lender's written commitment to make the loan;

(3) the bank shall obtain a written statement signed by the borrower acknowledging receipt of disclosure of all contractual contingencies which could force a sale of the mortgaged real estate;

(4) a provision permitting prepayment of the loan without penalty at any time prior to said loan becoming due and payable;

(5) the interest rate, which may be fixed or variable, and the method of calculation thereof shall be established at loan origination; quote and, at the option of the borrower, may be contingent on the value of the mortgaged real estate at closing or at maturity or on changes in said value during the period between closing and maturity;

(6) the method of disbursement of the proceeds of the loan to the borrower; provided, however, that at the request of the borrower, disbursement may be made to a third party pursuant to the terms of the loan agreement;

(7) a copy of the form of the note and mortgage deed that will be utilized for such loans;

(8) a detailed description of how the plan will function; and

(9) such other information as the commissioner may require.

Prior to making any such loan, a bank shall provide a prospective borrower with written materials explaining in plain language, the type of mortgage being offered and its specific terms, including but not limited to:

(a) a schedule, if applicable, and explanation of payments to the borrower pursuant

to the terms of the mortgage agreement and whether or not property taxes and insurance premiums are to be deducted;

(b) a schedule of outstanding debt over time, if applicable;

(c) repayment date, if a fixed term loan, and other provisions which cause the loan to become due and payable;

(d) method of repayment and schedule, if any;

(e) all contractual contingencies, including lack of home maintenance and other default provisions which may result in a forced sale of the mortgaged property;

(f) interest rate and annual percentage rate, and for a reverse mortgage loan for a specified term, total interest payable thereon;

(g) loan fees and charges;

(h) description of prepayment and, if applicable, refinancing features; and

(i) inclusion of a statement that any such mortgage has tax and estate planning consequences and may affect levels of, or eligibility for, certain government benefits, grants or pensions, and that applicants are advised to explore such matters with appropriate authorities.

A bank shall not make a reverse mortgage loan as provided in this section until it has received a notice, in writing, that the prospective borrower has completed a reverse mortgage counseling program which has been approved by the executive office of elder affairs and which shall include instruction on reverse mortgage loans. Any such program shall include, but is not limited to, the subject matter of subparagraphs (1) to (9), inclusive, with respect to all reverse mortgage loan programs approved by the commissioner pursuant to this section. For the purpose of providing such counseling, said executive office of elder affairs shall establish and maintain a list of counseling programs approved by it and shall make such list available to all banks and to the public.

A reverse mortgage loan shall constitute a lien against the property securing the loan to the extent of all advances made pursuant to the reverse mortgage and all interest accrued on such advances, and the lien shall have priority over any lien filed or recorded after recordation of a reverse mortgage loan.

The commissioner may promulgate regulations necessary to carry out the provisions of this paragraph.

For the purposes of this paragraph, the term "non-recourse reverse mortgage loan" shall mean a reverse mortgage loan which limits the lender's recovery solely to the value of the property at the time the loan becomes due and payable.

The provisions of sections 96 to 114A, inclusive, of chapter 140 shall not apply to a reverse mortgage loan.

SECTION 2. The seventh paragraph of section 65 of chapter 171 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out paragraph 5A and inserting in place thereof the following paragraph:-

5A. A credit union may make a reverse mortgage loan, pursuant to the provisions of any program for reverse mortgage loans which has been submitted to and approved by the

commissioner, to the owner of such real estate improved with a dwelling designed to be occupied by not more than four families; provided, however, that each such owner shall be at least 60 years of age, and shall occupy the mortgaged real estate in whole or in part; and provided further, that a person shall be deemed to be the owner of real estate notwithstanding that legal title thereto is held in the name of a trust if said person is the beneficiary of such trust.

A reverse mortgage loan, for the purpose of this paragraph, shall not be considered a residential mortgage transaction, as defined in section 1 of chapter 140D or any other transaction specified in subsection (e) of section 10 of said chapter 140D. The notices and rights contained herein shall be in addition to the disclosure and rights provided for in said chapter 140D, including the right of rescission set forth in said section 10 of said chapter 140D.

The proceeds from a reverse mortgage loan shall be disbursed to the borrower, pursuant to the provisions of such program, and together with unpaid interest, if any, shall become due and payable: (i) at the end of a fixed term, if any; (ii) upon the death of the borrower; (iii) upon the conveyance of title to the mortgaged real estate; (iv) upon such borrower ceasing to occupy said real estate as a principal dwelling; or (v) upon default by the borrower in the performance of its obligations under the loan agreement.

The aggregate balance of such loans made or acquired by a credit union shall not exceed 10 per cent of its deposits; provided, however, that such balance shall not include any such loans sold into the secondary mortgage market.

The commissioner shall not approve any program for a reverse mortgage loan which does not include the following:

- (1) the type of loan, whether open-end or closed and whether a recourse or non-recourse loan;
- (2) an applicant for any such loan shall not be bound for seven days after his acceptance, in writing, of the lender's written commitment to make the loan;
- (3) the credit union shall obtain a written statement signed by the borrower acknowledging receipt of disclosure of all contractual contingencies which could force a sale of the mortgaged real estate;
- (4) a provision permitting prepayment of the loan without penalty at any time prior to such loan becoming due and payable;
- (5) the interest rate, which may be fixed or variable, and the method of calculation thereof shall be established at loan origination; and, at the option of the borrower, may be contingent on the value of the mortgaged real estate at closing or at maturity or on changes in said value during the period between closing and maturity;
- (6) the method of disbursement of the proceeds of the loan to the borrower; provided, however, that at the request of the borrower, disbursement may be made to a third party pursuant to the terms of the loan agreement;
- (7) a copy of the form of the note and mortgage deed that will be utilized for such loan;

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- (8) a detailed description of how the plan will function; and
- (9) such other information as the commissioner may require.

Prior to making any such loan, a bank shall provide a prospective borrower with written materials explaining in plain language, the type of mortgage being offered and its specific terms, including but not limited to:

- (a) a schedule, if applicable, and explanation of payments to the borrower pursuant to the terms of the mortgage agreement and whether or not property taxes and insurance premiums are to be deducted;
- (b) a schedule of outstanding debt over time, if applicable;
- (c) repayment date, if a fixed term loan, and other provisions which cause the loan to become due and payable;
- (d) method of repayment and schedule, if any;
- (e) all contractual contingencies, including lack of home maintenance and other default provisions which may result in a forced sale of the mortgaged property;
- (f) interest rate and annual percentage rate, and for a reverse mortgage loan for a specified term, total interest payable thereon;
- (g) loan fees and charges;
- (h) description of prepayment and, if applicable, refinancing features; and
- (i) inclusion of a statement that any such mortgage has tax and estate planning consequences and may affect levels of, or eligibility for, certain government benefits, grants or pensions, and that applicants are advised to explore such matters with appropriate authorities.

A credit union shall not make a reverse mortgage loan as provided for in this section until it has received notice, in writing, that the prospective borrower has completed a reverse mortgage counseling program which has been approved by the executive office of elder affairs and which shall include instruction on reverse mortgage loans. Any such program shall include, but is not limited to, the subject matter of subparagraphs (1) to (9), inclusive, of this section with respect to all reverse mortgage loan programs approved by the commissioner pursuant to this section. For the purpose of providing such counseling, said executive office of elder affairs shall establish and maintain a list of counseling programs approved by it and shall make such list available to all credit unions and to the public.

A reverse mortgage loan shall constitute a lien against the property securing the loan to the extent of all advances made pursuant to the reverse mortgage and all interest accrued on said advances, and the lien shall have priority over any lien filed or recorded after recordation of a reverse mortgage loan.

The commissioner may promulgate such regulations necessary to carry out the provisions of this paragraph.

For the purposes of this paragraph, the term "non-recourse reverse mortgage loan" shall mean a reverse mortgage loan which limits the lender's recovery solely to the value of the property at the time the loan becomes due and payable.

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The provisions of sections 96 to 114A, inclusive, of chapter 140 shall not apply to a reverse mortgage loan.

SECTION 3. The provisions of this act shall be applicable to a reverse mortgage loan entered into on and after the effective date of this act; provided, however, that a reverse mortgage loan program approved and in effect in the commonwealth on said effective date is hereby deemed approved.

Approved August 10, 1998.

Chapter 284. AN ACT RELATIVE TO THE TAKING BY EMINENT DOMAIN OF CERTAIN LAND IN THE TOWN OF DENNIS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the department of fisheries, wildlife and environmental law enforcement may take by eminent domain under chapter 79 of the General Laws, for payment of \$250,000, for endangered species habitat and open space protection purposes, a portion of the registered and unregistered land in the town of Dennis, taken by the Dennis Water District, a body politic, for water well protection purposes described in an order of taking dated May 6, 1996 recorded in the Barnstable county registry of deeds in Book 10191 at Page 272 and registered as Document No. 665160, which portion to be taken by the department shall be shown on a plan of land to be prepared by the department.

SECTION 2. The inspector general shall review and approve the appraisal and the methodology used for said appraisal which was relied upon to arrive at the taking cost of \$250,000. If said inspector general determines that the taking cost of \$250,000 is more than the full and fair market value of the land, the Dennis Water District, a body politic shall reimburse the commonwealth the difference between the appraised cost and the taking cost. Said inspector general shall prepare a report of his review and file said report with the commissioner of the department of fisheries, wildlife and environmental law enforcement for submission to the house and senate committees on ways and means and the joint committee on state administration.

Approved August 10, 1998.

Chapter 285. AN ACT PROVIDING FOR THE DISTRIBUTION OF INFORMATION TO CERTAIN PARENTS OF CHILDREN ENROLLED IN ELEMENTARY AND SECONDARY SCHOOLS.

Be it enacted, etc., as follows:

Chapter 71 of the General Laws is hereby amended by inserting after section 34G the following section:-

Section 34H. (a) Each public elementary and secondary school shall provide the following information in a timely and appropriate manner to the parent of a child enrolled in the school if the parent is eligible for information pursuant to this section and requests the information in the manner set forth in this section: report cards and progress reports; the results of intelligence and achievement tests; notification of a referral for a special needs assessment; notification of enrollment in a transitional bilingual program; notification of absences; notification of illnesses; notification of any detentions; suspensions or expulsion; and notification of permanent withdrawal from school. Each school shall also make reasonable efforts to ensure that other written information that is provided to the custodial parent but not specified in the preceding sentence be provided to the requesting parent if that parent is eligible for information pursuant to this section and requests the information in the manner set forth herein. All address and telephone number information shall be removed from information provided pursuant to this section. Receipt of this information shall not mandate participation in any proceeding to which notification pertains nor shall it authorize participation in proceedings and decisions regarding the child's welfare which are not granted through the award of custody. For purposes of this section, any parent who does not have physical custody of a child shall be eligible for the receipt of information pursuant to the procedures of this section unless said parent has been denied legal custody of the child based on a threat to the safety of the child or to the custodial parent, or who has been denied visitation, or who has been ordered to supervised visitation, or whose access to their child or to the custodial parent has been restricted by a temporary or permanent protective order unless said protective order, or any subsequent order which modifies said protective order, specifically allows access to the information described in this section.

(b) A parent eligible for information pursuant to this section who wishes to have this information shall submit a written request to the school principal annually. The initial request shall include: a certified copy of the probate court's order or judgment relative to the custody of the child indicating that the requesting parent has not sought and been denied shared legal custody as defined in section 31 of chapter 208 based on a threat to the safety of the child or the custodial parent and is entitled to unsupervised visitation with his child, or a certified copy of an order by a probate and family court judge specifically ordering that this information be made available to the requesting parent which certifies on its face that it is being made after a review of the records, if any, of the judgment of custody and the criminal history of the petitioner, that provision of the requested information has not been determined to pose a safety risk for the custodial parent or to any child in the custodial parent's custody and that it is in the best interest of the child that such information be provided to the petitioner; and an affidavit from the requesting parent certifying that the judgment or order remains in effect and that no temporary or permanent protective order restricting access to the custodial parent or to any child in the custodial parent's custody is in effect.

(c) Upon receipt of a request for information pursuant to this section the school shall

immediately notify the custodial parent of the receipt of the request. Notification must be made by registered mail and by first class mail in both the primary language of the custodial parent and in English. The school may seek reimbursement for the cost of postage from the requesting parent. The notification shall also inform the custodial parent that information requested pursuant to this section shall be provided to the requesting parent after 21 days unless the custodial parent provides to the principal of the school documentation of any court order which prohibits contact with the child, or prohibits the distribution of the information referred to in this section or which is a temporary or permanent order issued to provide protection to the custodial parent or any child in the custodial parent's custody from abuse by the requesting parent unless said protective order or any subsequent order which modifies said protective order, specifically allows access to the information described in this section.

(d) In each subsequent year, the parent eligible for information pursuant to this section shall indicate in the annual request that he continues to be entitled to unsupervised visitation with his child and to be eligible for the receipt of the information pursuant to this section. Upon receipt of a request for information pursuant to this section the school shall immediately notify the custodial parent of the receipt of the request. Notification shall be made by registered mail and by first class mail in both the primary language of the custodial parent and in English. The school may seek reimbursement for the cost of postage from the requesting parent. The notification shall also inform the custodial parent that information requested pursuant to this section shall be provided to the requesting parent after 21 days unless the custodial parent provides to the principal of the school documentation of any court order which prohibits contact with the child, or prohibits the distribution of the information referred to in this section or which is a temporary or permanent order issued to provide protection to the custodial parent or any child in the custodial parent's custody from abuse by the requesting parent.

(e) At any time the principal of a school is presented with an order of a probate and family court judge which prohibits the distribution of information pursuant to this section the school shall immediately cease to provide said information and shall notify the requesting parent that the distribution of information shall cease.

(f) The principal of each public elementary and secondary school shall designate a staff member whose duties shall include the proper implementation of this section.

(g) Requests for information made pursuant to this section which are made while a permanent protective order restricting access to the custodial parent or to any child in the custodial parent's custody is in effect shall constitute a violation of said protective order and be subject to the applicable penalties.

(h) The department of education shall promulgate regulations to implement the provisions of this section. Said regulations shall include provisions which assure that the information referred to in this section is properly marked to indicate that said information may not be used to support admission of the child to another school.

Approved August 10, 1998.

Chapter 286. AN ACT EXTENDING EXISTING ECONOMIC INCENTIVES TO BUSINESSES REBUILDING IN THE COMMONWEALTH AFTER A DISASTER.

Be it enacted, etc., as follows:

SECTION 1. As used in this act, the following words shall have the following meanings:-

"Base period employment level", the number of permanent full-time employees in the commonwealth, as of July 1, 1998, as certified by the economic assistance coordinating council within the Massachusetts office of business development, of a corporation made eligible by this act for a credit pursuant to section 38N of chapter 63 of the General Laws.

"Employment level", the number of permanent full-time employees in the commonwealth in a given taxable year, as certified by the economic assistance coordinating council within the Massachusetts office of business development, of a corporation made eligible by this act for a credit pursuant to section 38N of chapter 63 of the General Laws.

"Jobs commitment level", for taxable years beginning on or after January 1, 1999, but before January 1, 2001, an employment level of 100 per cent of the base period employment level; for taxable years beginning on or after January 1, 2001, but before January 1, 2002, an employment level of 102½ per cent of the base period employment level; for taxable years beginning on or after January 1, 2002, but before January 1, 2003, an employment level of 105 per cent of the base period employment level; for taxable years beginning on or after January 1, 2003, but before January 1, 2004, an employment level of 110 per cent of the base period employment level; for taxable years beginning on or after January 1, 2004, but before January 1, 2005, an employment level of 115 per cent of the base period employment level.

"Permanent full-time employee", shall have the meaning given to that term in section 3A of chapter 23A of the General Laws.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, in the case of a corporation which has, within the time period from October 1 to December 31, 1995, inclusive, suffered a casualty and which has satisfied the jobs commitment level defined in section 1, the following credits shall be available subject to the provisions of this act:

(a) Solely for the purposes of calculating the credit authorized by section 38N of chapter 63 of the General Laws: (1) the cost or other basis of qualifying property that replaces property which was involuntarily converted, as determined by Section 1033(a) of the Internal Revenue Code, which shall be determined without any adjustment, notwithstanding the provisions of Section 1033(b) of said Internal Revenue Code, as amended and in effect for the current taxable year; and (2) the cost of the property which qualifies for the credit authorized by said section 38N, shall include costs related to the repair, reconstruction and replacement of the qualifying property that was involuntarily converted that (i) have been incurred by the corporation since the date of the casualty, before or after the effective date of this act, as a result of the casualty and which are directly related to the qualifying property, and (ii) that have been incurred for property that is used exclusively in a certified project as defined in section 3A of chapter 23A of the General

Laws; provided, however, that the assessed value of said qualifying property is at least 100 per cent of the replaced property which was involuntarily converted by a casualty from October 1 to December 31, 1995, inclusive, including both real and personal property.

(b) Solely for the purposes of calculating the credit authorized by paragraph (i) of section 31A of chapter 63 of the General Laws, the cost or other basis of qualifying property that replaces property which was involuntarily converted, as determined by Section 1033(a) of the Internal Revenue Code, shall be determined without any adjustment, notwithstanding the provisions of Section 1033(b) of said Internal Revenue Code, as amended and in effect for the current taxable year; provided, however, that the assessed value of said qualifying property is at least 100 per cent of the replaced property which was involuntarily converted by a casualty from October 1 to December 31, 1995, inclusive, including both real and personal property.

SECTION 3. In the case of any corporation made eligible by this act for a tax credit pursuant to section 38N of chapter 63 of the General Laws, if the employment level of such corporation is less than its jobs commitment level in a given taxable year, as determined by the economic assistance coordinating council within the Massachusetts office of business development, any tax credits for which such corporation shall have been made eligible by this act shall be subject to recapture as provided in said section 38N of said chapter 63 and section 4 of this act; provided, however, that the base period employment level shall be reduced in any given year to reflect any reduction in employment level due to a reduction in sales generally affecting the industry, or sector of the industry, in which such corporation does business, as determined by said council within the Massachusetts office of business development; and provided, further, there shall be no reduction in the base period employment level on account of any reduction in employment level due to the relocation of jobs, that had been located in the commonwealth on or after July 1, 1998, to a location outside the commonwealth.

SECTION 4. Notwithstanding the provisions of any general or special law to the contrary, a corporation entitled to a credit under this act may sell, assign, exchange, convey or otherwise transfer such credit to any party or parties, provided, however, that: (a) such corporation continues to satisfy the requirements of this act with respect to the use and ownership of the qualifying property for which the credit is allowed; (b) that an amount at least equal to the amount of the proceeds of such transfer shall, prior to the end of the recapture period specified in subsection (e) of section 31A, or paragraph (a) of section 38N, as the case may be, of chapter 63 of the General Laws, shall be expended by such corporation in the acquisition of qualifying property, as defined in subsection (a) of said section 31A of said chapter 63; and (c) such corporation certifies to the commissioner, concurrently with the submission of its tax return with respect to the tax year in which such transfer occurred, the amount of credits so transferred and the name and the taxpayer number of any such party or parties to which said credits are transferred.

In the event of any recapture under subsection (e) of said section 31A of said chapter 63 of any portion of the credit authorized by this act, any such corporation shall be solely liable for any additional taxes due as a result of such recapture.

In the event that, after an examination of the returns and the books, papers, records and other data of any such corporation, the commissioner determines that the amount of the credits transferred exceeds the amount of the credit to which any such corporation was entitled pursuant to this act, such excess amount shall be assessed solely against any such corporation which shall be solely liable for any such additional taxes, penalties and interest so assessed. Nothing herein shall limit any right any such corporation may otherwise have to seek an abatement of any amount so assessed.

Any amount received as consideration for credits transferred under this section or any amount by which the nominal value of such transferred credits exceeds the amount of such consideration shall be taxable as income under either chapter 62 or chapter 63 of the General Laws. A transfer of credits pursuant to this act shall not alter the entitlement, allocation or attribution to any party of any item of income, gain, loss, deduction or credit other than (i) credits transferred pursuant hereto, and (ii) any taxes, penalties or interest due as a result of recapture of such credit or any assessment against any such corporation as provided herein.

With respect to any party or parties to which said credits are transferred, (i) if such party or parties are subject to the excise imposed by chapter 63 of the General Laws, the credit so transferred shall be a credit against the excise imposed by said chapter 63 ; (ii) if such party or parties are subject to tax under chapter 62 of the General Laws, the credit so transferred shall be a credit against the tax imposed by said chapter 62.

SECTION 5. Notwithstanding the provisions of any general or special law to the contrary, the amount of any and all tax credits received pursuant to paragraphs (a) and (b) of section 2, by a corporation which has suffered a casualty within the time period from October 1 to December 31, 1995, inclusive, shall not exceed an aggregate amount of \$7,500,000.

Emergency Letter: August 11, 1998 @ 10:30 A.M.

Approved August 10, 1998.

Chapter 287. AN ACT AUTHORIZING THE ESTABLISHMENT OF THE BURNCOAT POND WATERSHED DISTRICT IN THE TOWNS OF LEICESTER AND SPENCER.

Be it enacted, etc., as follows:

SECTION 1. There is hereby authorized the establishment of a district within the town of Leicester and the town of Spencer, to be known as the Burncoat Pond Watershed District which, upon its establishment in the manner hereinafter set forth shall constitute a body politic and corporate.

(A) To promote all of the following purposes as the proprietors and management committee determines, within the district: flood control, groundwater protection, protection of public and private water supplies, protection of fish and wildlife, including habitat, prevention of pollution, storm damage prevention, to protect and preserve Burncoat Pond,

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and such other purposes and in such manner as the proprietors and the management committee may determine are in the best interest of the district.

To provide a cooperative management district for coordination of planning and management activities in furtherance of the purposes associated with the district. To provide funding as may be necessary to accomplish the purposes of the district.

(B) Said district shall be generally bounded and described as follows:-

Beginning at the Southerly side of Lake Drive in the Town of Leicester Massachusetts, at the intersection of Lake Drive and the Town line between Town Leicester and the Town of Spencer and running in a Southerly direction along said Town line to the Northerly side of Rawson Street in said Leicester, Massachusetts;

Then running in a Easterly direction Two Hundred Thirty Two and 52/100's (232.52) feet;

Then running in a Northerly direction Two Hundred Forty Nine and 43/100's (249.43) feet;

Then running in a Easterly direction One Hundred Seventy Five (175) feet;

Then running in a Northerly direction by two courses, the first Ninety and 40/100's feet (90.40) and then Four Hundred Sixty (460) feet;

Then running in a Easterly direction by three courses, the first Five Hundred and 51/100's (500.51) feet, the second across Lake Drive and the third Forty Eight and 35/100's (48.35) feet;

Then running in a Northerly direction Two Hundred Fifty Six (256) feet;

Then running in a Easterly direction by three courses, the first Two Hundred Twenty Five (225) feet, the second across Burncoat Lane and the third One Hundred (100) feet;

Then running in a Northerly direction by two courses, the first Two Hundred Fifty Nine (259) feet and the second Two Hundred Sixty Seven and 75/100's (267.75) feet;

Then running in a Easterly direction by three courses, the first Five Hundred Twenty Nine and 50/100's (529.50) feet, the second One Hundred Sixty Four and 68/100's (164.68) feet, and the third Nine Hundred Seventy Seven and 19/100's (977.19) feet;

Then running in a Easterly direction Two Hundred Thirty Four and 92/100's (234.92) feet;

Then running in a South Westerly direction One Hundred Thirty Two (132) feet;

Then running in a South Easterly direction Two Hundred One and 28/100's (201.28) feet;

Then running in a Easterly direction Six Hundred Sixty Six and 06/100's (666.06) feet;

Then running in a Southerly direction in two courses, the first One Hundred Sixty Six and 40/100's (166.40) feet and the second One Hundred Fifty Five and 12/100's (155.12) feet;

Then running along the North side of Rawson Street, in a North Easterly direction Two Hundred Twenty Five (225) feet to the intersection of Rawson Street and Pine Ridge Road;

Then running in a Northerly direction three courses and along the West side of Pine

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Ridge Road, One Hundred Fifty Two and 73/100's (152.73) feet, Two Hundred Twenty Nine and 08/100's (229.08) feet and Sixty Three and 12/100's (63.12) feet;

Then running in a Westerly direction Sixty Nine and 50/100's (69.50) feet;

Then running in a North Westerly direction by four courses, One Hundred Ninety Six and 74/100's (196.74) feet, Two Hundred Ninety Three (293) feet, Two Hundred Eighty Four (284) feet and Two Hundred Ninety Six and 58/100's (296.58) feet;

Then running in a Northerly direction Three Hundred Twenty Three and 53/100's (323.53) feet;

Then running in a Northerly direction Nine Hundred Seventy Five (975) feet;

Then running in a Westerly direction Two Hundred (200) feet;

Then running in a North-Westerly direction Two Thousand Two Hundred Fifty One (2,251) feet;

Then running in a Northerly direction approximately Two Hundred (200) feet;

Then running in a Westerly direction One Thousand Nine Hundred Thirty Six and 54/100's (1,936.54) feet to the Town line between the Town of Leicester and the Town of Spencer;

Then running in a Westerly direction in the Town of Spencer along land now or formerly of the Massachusetts Audubon Society approximately One Thousand Seven Hundred Fifty (1,750.00) feet to a point directly North of the Northerly most point of Burncoat Pond;

Then running in a Southerly direction approximately Four Hundred (400) feet to a point One Hundred (100) feet directly North of the Northerly most point of Burncoat Pond;

Then running first in a South Westerly direction, then in a Southerly direction and then in a South Easterly direction in a course Fifty (50) feet from the high water mark of Burncoat Pond, through land now or formerly of Massachusetts Audubon Society and then of land now or formerly of Richard Green, to the Town line between the Town of Leicester and the Town of Spencer; and

Then running in a Southerly direction to point of beginning.

(C) The general boundaries referred to are intended as guidelines only. The actual district boundaries shall be deemed to include those separately assessed parcels within said towns as shown from time to time on the maps maintained by the board of assessors for the towns and which parcels either:

(1) Abut directly on the shoreline of Burncoat Pond or.

(2) Except as set forth in paragraph (3), a holder of a recorded private right of access to land which abuts the shoreline of Burncoat Pond in such manner that the owner or proprietor of such land is afforded by such recorded right of access to Burncoat Pond for bathing, boating or other lake recreational activities at a location where members of the general public may lawfully be excluded from such use.

(3) Any private community beach within the general boundaries of the district, shall be deemed a single proprietor as hereinafter defined. The community beach shall be assessed at the value of each beach and apportioned among all those parties with property rights there-

in. A holder of a recorded private right of access to or through said community beaches shall not be assessed individually nor shall a holder of such right be considered a proprietor except and to the extent that each community beach is deemed a proprietor.

(4) The public beach during such time as the parcel is owned or operated by the town of Leicester shall be excepted and shall not be a parcel subject to the jurisdiction of this act; provided, however, that should at any future date said parcel revert to private ownership, use of said parcel shall no longer be excepted from the jurisdiction of this act.

The actual boundaries of the district, as so comprised, may include certain parcels situated outside of the general boundaries set forth in subsection (A) and may also exclude several parcels lying within said general boundaries.

SECTION 2. Membership in the district shall consist of the proprietors from time to time of one or more separately assessed parcels of lands lying within the district which either abuts Burncoat Pond or has a real property deeded access to Burncoat Pond, including but not limited to an easement to Burncoat Pond. For the purpose of this act, a proprietor shall be deemed to include not only natural persons, but also other entities empowered to own real estate in the commonwealth including corporations, partnerships, realty trusts and federal, state and local governmental units. Any mortgagee of record in possession of any one or more separately assessed parcels shall be deemed a proprietor under this act. Persons or entities who shall jointly own one or more separately assessed parcels shall be deemed one proprietor under this act. Persons or entities who shall jointly own one or more separately assessed parcels within the district shall collectively constitute a proprietor for all purposes hereunder.

SECTION 3. The district, upon establishment in the manner hereafter set forth, shall have the following powers:

(A) To initiate and coordinate research and surveys for the purpose of gathering data on the lake, related shore lands, watershed and the drainage basins and other matters directly pertaining to the reclamation, preservation and maintenance of the lake for general recreational use.

(B) To plan lake rehabilitation, enhancement, maintenance and preservation projects.

(C) To implement such projects and to conduct, coordinate and supervise the implementation thereof at all times subject to the obtaining of necessary approvals from and, where required, under the supervision of appropriate local, state and federal governmental agencies including the town of Leicester, the town of Spencer, the department of environmental management, the department of environmental protection, and the department of fisheries, wildlife and recreational vehicles and appropriate funding and regulatory agencies of the federal government.

(D) To make and enter into all manner of contracts and agreements necessary or incidental to the exercise of any power granted to the district by this act.

(E) To adopt an annual budget and to raise and appropriate funds in amounts necessary to carry out the purposes for which the district is formed.

(F) To acquire, dispose of and encumber real and personal property for the purposes

of the district, including but not limited to the power to acquire real estate or a limited interest in real estate by eminent domain under and subject to the provision of chapter 79 of the General Laws and chapter 80A of the General Laws.

(G) To manage, control and supervise equipment and facilities necessary or appropriate in the accomplishment of the purposes of this act, including, but not limited to, weed harvesting equipment, dredging apparatus, lake draw down facilities for either temporary or permanent water level control and also recreational swimming and boating facilities for public use.

(H) To construct, acquire or lease or purchase, improve, maintain and operate such equipment and facilities and such other equipment, materials, supplies, facilities and services as shall be required to accomplish the purposes of this act, to the same extent and subject to the same limitations as shall apply to towns in the commonwealth from time to time under the General Laws.

(I) To apply for, accept and expend financial assistance from the federal government, the commonwealth, Worcester county, the town of Leicester and the town of Spencer.

(J) To apply for, receive and expend funds from charitable foundations or other private entities and individuals in the form of grants, gifts, loans and advances for in aid of the purposes of the district.

(K) To employ such persons, including consultant experts as may be deemed necessary in its judgment, and to fix their compensation.

(L) To adopt by-laws for the regulation of its affairs and the conduct of its business, which by-laws shall be consistent with the powers conferred by this act and with other applicable provisions of the General Laws.

(M) To perform all duties and exercise all responsibilities called upon to be exercised or performed by the town of Leicester and the town of Spencer, pursuant to any grant awarded by the department of environmental protection pursuant to any general or special law or grant awarded by the division of environmental management or any other public agency. Said exercise and acceptance shall be subject to approval by the commissioner of environmental protection or his designee so as to permit the district to act as direct grantee or sub-grantee under the town of Leicester or the town of Spencer.

(N) To borrow at the first or any subsequent meeting of the district for the purpose of meeting preliminary or current expenses such sums as may be necessary and to issue therefor general obligation temporary notes for a period of not more than two years, provided that such notes shall be issued only in anticipation of assessments and other revenues of the district of the fiscal year in which such notes are issued or in anticipation of money to be received from the sale of longer term bonds or notes for such purposes as are otherwise hereafter permitted in this act.

(O) To sue and be sued in its own name and to plead and be impleaded; provided, however, that neither the district nor any officer or employee thereof shall be liable in tort except pursuant to the provisions of chapter 258 of the General Laws; and provided, further, that the district may indemnify its officers and employees to the extent provided in said chapter 258.

(P) To invest any funds not required for the immediate use of the district in such manner and to the extent permitted under the General Laws for the investment of such funds by the treasurer of a town.

(Q) To procure insurance against any loss or liability which may be sustained or incurred in carrying out the purposes of this act in such amount as the district shall deem necessary and appropriate and with one or more insurers who shall be licensed to furnish such insurance in the commonwealth.

(R) To perform generally all acts which are necessary or convenient to implement the powers which are expressly or by necessary implication conferred upon the district by this act and which are not otherwise prohibited under any provision of the General Laws.

SECTION 4. The boards of selectmen of the town of Leicester and the town of Spencer shall, within 60 days of the effective date of this act, call a meeting of the proprietors of the lands to be included in the district as set forth under section 2. For the purposes of establishing an initial list of proprietors, the board of selectmen of each town shall consult with their respective boards of assessors who shall furnish to the board of selectmen a listing of all record property owners, as of January first in the year in which this act became effective who are owners of one or more separately assessed shore front parcels, or who within the reasonable knowledge or belief of the assessors are owners of one or more separately assessed parcels which do not have frontage on Burncoat Pond but which possess deeded easement rights to the use of said lake frontage property as set forth in section 2. For the purpose of determining the list of proprietors, a person or organization shall be deemed to be a proprietor and hold a separately assessed parcel even if the parcel is untaxed or nontaxable. This would include but not be limited to nonprofit organizations who hold a parcel or parcels abutting Burncoat Pond. A proprietor who is untaxed or nontaxable shall still retain all other rights as a proprietor including but not limited to all voting rights.

The board of selectmen upon receiving such lists shall prepare and mail by certified mail a notice to each such proprietor signed by the selectmen and setting forth a time and place of a meeting to occur within said 60 day period but not less than 14 days from the date of mailing of said notice. The notice shall be in the form of a warrant specifying the matters upon which action is to be taken at the meeting and shall further clearly state that the purpose of the meeting is to consider the organization of the district. The board of selectmen shall not later than 14 days prior to the date of such meeting cause a copy of the notice to be posted in one or more public access locations within each town. The meeting shall be held at the Leicester town hall unless some other location within said town is so designated by the notice.

At the first meeting of the district, one selectman from the town of Leicester shall initially preside and shall call the meeting to order. Said selectman shall thereupon determine whether or not the proprietors constituting a majority in interest of the aggregate assessed evaluation of land and improvements or majority in number of the proprietors, are present or represented by proxies duly executed and placed in the hands of other proprietors prior to said meeting. Lacking such a majority, the meeting shall have no power to act, but the select-

men of the town may, in the manner above provided, call additional meetings for the same purpose within a further 60 day period.

Provided that a quorum has been determined to be present in the manner above specified, the meeting shall then proceed to the following order of business:

(A) Election of a temporary clerk, who shall be sworn by one of the selectmen present, and a moderator who shall thereupon preside.

(B) The taking of a vote to determine whether or not the district authorized by this act shall be established and organized, which vote shall require an affirmative vote of two-thirds of the proprietors present and voting in person or by proxy. If such vote shall be in the negative, the meeting shall thereupon adjourn. If such vote shall be in the affirmative and upon the required majority, the meeting shall next proceed to consider the order of business set forth in paragraphs (C) to (F), inclusive.

(C) The adoption of district by-laws and form of district seal.

(D) The election by ballot of district clerk and a district treasurer, who may be the same person, and who shall be legal residents of the commonwealth, to hold office until one year from the next succeeding annual meeting and at each annual meeting after the first clerk and treasurer shall be elected by ballot for one year. There shall also be elected by ballot three members of the management committee, constituted in its entirety as hereafter set forth, said three members to hold office, one for three years, one for two years, and one for one year, from the next succeeding annual meeting. At each annual meeting after the first, a member of the committee shall be elected by ballot for two years. The aforesaid officers of the district shall hold office until their successors are elected and qualified. Persons eligible for nomination and election to the management committee shall be at least 18 years of age and shall include persons entitled to vote as proprietors or as representatives of proprietors at district meetings, and also other persons who are legal residents of the commonwealth.

(E) The adoption of an initial budget for the remainder of the fiscal year and the appropriation of moneys to be raised by assessment upon the proprietors in support thereof.

(F) The consideration of such other business as shall be consistent with the power and authority conferred by this act.

The district clerk shall retain all proxy votes cast at the initial meeting, together with the minutes of the meeting as part of the permanent record of the district. The clerk shall further prepare a certificate of the vote taken to organize the district and shall affix the form of seal thereto as adopted by the initial district meeting and shall obtain the endorsement of the selectman initially presiding at the meeting thereon. Such certificate shall be forwarded to the attorney general within 30 days following the adjournment of the meeting.

SECTION 5. At the initial district meeting, at all subsequent annual and special district meetings, voting by proprietors shall be governed by the requirements of this section. Persons or entities owning one or more separately assessed parcels of land within the district shall be entitled to cast one vote on any matter or issue to be voted upon at any such meeting and notwithstanding the total number of parcels owned by such person, persons or entities. Joint owners and entity proprietors shall designate in writing to the clerk prior to the com-

mencement of the meeting, the person authorized to vote on behalf of the proprietor at such meeting and such person shall be presumed as qualified and authorized to represent the proprietor if such person shall be a listed record owner of such parcel or parcels or if such person shall, as evidenced by any public record maintained under the laws of the commonwealth be listed as a partner, trustee, agent, officer, or employee of a proprietor. A person owning one or more parcels together with his spouse shall not be required to furnish a written designation from his spouse and either shall be presumed to be qualified to vote.

The authority of a person to cast a proxy vote on behalf of a proprietor shall likewise be determined by the clerk. All proxies shall be tendered in writing prior to the commencement of any district meeting and shall clearly set forth the name and address of the proprietor entering the proxy, the name and address of the person who is to exercise the proxy, the signature of the proprietor granting same and the date of execution. The district, may, if it so elects, adopt in its by-laws an approved form of proxy to satisfy the requirements of this section. The duration of a proxy shall be established by district by-law.

SECTION 6. Annual meetings of the district shall be held on the last Thursday in March in each year or at such other time as the district shall establish from time to time in its by-laws. Annual and other special meetings of the district shall be called by warrant under the hands of the management committee, notice of which shall be given 14 days at least before such meeting. The warrant shall be mailed first class, postage prepaid to each proprietor of record in the district and copy of the same shall be directed to a constable of the town of Leicester and of the town of Spencer or to some other person who shall cause a copy of said notice to be posted in one or more public places within the towns or by advertising in a newspaper published at least weekly within Worcester county and having a general circulation within Leicester and Spencer. The warrant for all district meetings shall state the time and place of the meeting and the subjects to be acted upon thereat. The management committee shall insert in the warrant of the annual meeting all subjects, the insertion of which shall be required of them in writing by ten or more proprietors of the district and in the warrant for every special district meeting all subjects the insertion of which shall be requested of them in writing by ten or more proprietors.

The management committee shall call a special district meeting at its behest or upon request in writing of not less than ten proprietors or proprietors constituting at least 20 per cent in interest, either in assessed evaluation of land improvements or in total land area within the district. Special meetings so requested shall be held not later than 30 days after the receipts of such request. No action taken at the annual or any special district meeting shall be valid unless the subject matter thereof shall have been set forth in the warrant for such meeting. Two or more district meetings for distinct purposes may be called for by the same warrant. At every district meeting a moderator shall be chosen by ballot and shall have the powers of the moderator of a town meeting.

District meetings shall be governed by chapter 39 of the General Laws except as otherwise expressly provided in this act.

The boards of assessors of the town of Leicester and the town of Spencer shall, at

least 30 days prior to the annual district meeting, prepare and forward to the management committee a true and complete alphabetical listing with addresses of the proprietors reflected in their records as of January first of that year and from the records maintained by the assessors pursuant to chapter 59 and other related provisions of the General Laws. A copy of such list shall be maintained in a manner accessible to the proprietors and the general public at all reasonable times by the management committee and the district clerk and shall further be available for inspection at the annual meeting and any special meeting of the district. The boards of assessors shall likewise maintain a list of proprietors within their town by separate list or special designation on their list of all assessed parcels.

Quorum requirements for annual meetings and special meetings of the district shall be as specified for the initial district meeting set forth above or otherwise as the district shall determine from time to time in its by-laws; provided, however, that the quorum requirements at such meeting shall not be reduced below a number of proprietors constituting one-third in interest either in aggregate assessed evaluation of land and improvements or one-third of the total number of proprietors, whether voting in person or by proxy as aforesaid.

Any matter to be voted upon at an annual or special meeting of the district shall require only a majority of those proprietors present in person or by proxy and voting on the question, except for the following actions which shall require a two-thirds vote:

(A) A vote to petition for dissolution of the district.

(B) A vote to purchase or otherwise acquire real property.

(C) A vote to finance any undertaking which is authorized by this act to be financed in whole or in part by the issuance by the district of long term notes or bonds.

SECTION 7. In addition to the three members elected by the district as provided in this act, the management committee shall comprise the following additional persons:

One member each from the board of selectmen of the towns of Spencer and Leicester or such other resident voter of each town as shall be appointed by its board of selectmen to serve on the prudential committee. Such selectman or other person shall serve at the pleasure of the board of selectmen appointing same and each shall be a full voting member of the committee.

In the event that either town shall fail from time to time to so designate its member or if such member shall resign and no replacement shall have been designated in like manner, the management committee shall nonetheless be legally constituted with full power to carry out its duties and responsibilities as set forth herein with the three members elected by the district.

In addition to the five voting members there shall be one member who shall be designated by the Massachusetts Audubon Society so long as the Massachusetts Audubon Society shall own real property within the district. Said member shall be a nonvoting member of the management committee, except that in any matter where a current voting member of the management committee shall have a conflict of interest, and said voting member shall have removed himself or been removed from considering any issue to be voted upon, said member designated by Massachusetts Audubon Society shall become the fifth voting member of the management committee.

The management committee shall have and shall exercise, the following powers and duties:

(A) The expenditure for the purposes permitted to the district, of the money raised and borrowed by the district.

(B) The annual preparation of a budget for the management and operation of the district and the submission of such budget to the annual district meeting for its approval. Such budget shall include the committee's estimate of those moneys required to be raised and appropriated by means of assessment upon the district proprietors, by borrowing, or otherwise to be received.

(C) To apply in the name of the district for grants, loans, and other assistance from both governmental and nongovernmental entities.

(D) Subject to prior appropriation therefor, to enter into agreements and contracts involving the purchase or lease of services, equipment and supplies consistent with the powers granted by this act.

(E) Subject to prior appropriation therefor, to hire, supervise, suspend and discharge such employees as the committee shall deem necessary or appropriate for the conduct of the work to be performed by the district including, but not limited to, a district superintendent who shall have charge on a day to day basis of all district employees and who shall be responsible on behalf of the management committee for the conduct and supervision of any and all work to be performed by or on behalf of the district pursuant to this act. Compensation and benefits for the district superintendent and all other employees shall, subject to prior appropriation therefor, be as determined from time to time by vote of the management committee.

SECTION 8. The management committee shall meet as necessary, but in no event less frequently than every three months. A quorum of the management committee shall be required at all meetings for the conduct of any business thereat and shall consist of a majority of its voting members. The initial meeting of the management committee shall be not later than 30 days following the establishment of the district. Thereafter the committee shall schedule one meeting to occur in each year immediately following the adjournment of the annual district meeting. At such initial meeting and at all subsequent meetings following the annual district meeting, the committee shall elect from its members a chairman who shall preside at all committee meetings and who shall serve until his successor shall be elected at the meeting following the annual district meeting. The committee shall also elect a vice-chairman who shall be empowered to preside over committee meetings in the absence of the chairman and who shall serve for like term. The district, may, subject to a prior appropriation therefor, provide appropriate compensation for district officers including members of the management committee and including the expense of travel, meals and lodging for such officers and committee members residing outside the district.

SECTION 9. Without the limiting of its powers as set forth in this act, the management committee shall have charge of expenditures on account of the district, duly budgeted and appropriated pursuant to the powers granted to the district, and shall exercise the authority conferred upon it by the district by-law, except as otherwise expressly provided in this act.

SECTION 10. The district treasurer shall receive and take charge of all money belonging to the district, and pay over and account for the same according to the order of the district or its management committee. The treasurer or in his absence any duly appointed person under the district by-laws shall pay any district bill; provided, however, that this provision shall not prohibit the treasurer from paying such bill by the use of a bank treasurer's or cashier's check. He shall further have the authority given to an auditor by section 51 of chapter 41 of the General Laws, and shall annually render a true account of his receipts and disbursements and report of his official acts to the district. The treasurer shall give bond annually for the performance of his duties in a form approved by the commissioner of revenue and in such sum, not less than the amount established by said commissioner, as shall be fixed by the management committee, and, if he fails to give such bond within ten days after his election or appointment, or if within ten days after the expiration of said bond or any renewal of said bond, he fails to file a renewal thereof, the management committee shall declare the office vacant and the vacancy shall be filled by the committee in the manner set forth in section 12.

SECTION 11. The district clerk shall, in addition to the other duties specified herein, take all minutes at district meetings and at meetings of the management committee and maintain a record of such minutes in a manner provided for the maintenance of records of minutes of town meetings and of meetings by the boards of selectmen in the commonwealth. The clerk shall further be the official responsible for certifying copies of any and all votes taken at a district meeting or a meeting of the management committee.

SECTION 12. Any vacancy occurring in the office of clerk, treasurer or member of the management committee elected by the district may be filled by the district for the remainder of the unexpired term at any special meeting called for that purpose, or in the case of a vacancy in the office of clerk or treasurer or disability effecting either of said officers, the management committee may appoint a person to fill said vacancy until an election can be held or the disability is removed. Such temporary appointee shall be sworn and shall perform the duties of the office to which he is appointed during his tenure thereof. A temporary treasurer appointed to fill a vacancy, as above provided, shall give bond in the same manner as the treasurer.

SECTION 13. At its initial meeting, and at the annual meeting each and every year thereafter, the district shall adopt by two-thirds vote as set forth in this act, a method to be employed during the fiscal year to which the meeting relates for financing the share of its annual budget which is anticipated to be required to be funded by the district. The district may vote to adopt any of the following methods of financing, or combination thereof:

(A) The district may raise by assessments upon the proprietors and by voluntary contributions the total sum required to meet such estimated expense. Nothing contained herein shall empower the district to assess any property and proprietor that is exempt from property taxation in the commonwealth.

(B) The district may pay the whole of such expense from time to time as the work, material, labor and services shall be performed and for this purpose may incur debt by a tem-

porary loan in anticipation of the collection of assessments from the district members during the fiscal year in which said debt is incurred or during the next succeeding fiscal year and except as further modified on the initial fiscal year under paragraph (N) of section 3.

(C) At such district meeting or at a special meeting called for that purpose, the district may incur debt to the amount necessary to pay that portion of such expense which relates solely to proposed long term district improvements and major equipment purchases and may issue therefor notes or bonds, and may, if the district further so approves, issue notes or bonds on the condition that the first payment on account of the principal shall be deferred for a period of not more than five years from the date of issue of such notes or bonds and that the whole amount of such debt shall be payable within a period of not more than 25 years after such notes or bonds are issued. No such issue shall be for a term longer than the reasonably estimated useful life of the improvements, facilities and equipment to be so funded.

Indebtedness incurred by the district under the provision of this paragraph shall be subject to chapter 44 and to other provisions of the General Laws applicable to notes and bonds of districts except as otherwise provided in this act. If the district issues notes or bonds and thereafter it shall receive an appropriation from other governmental entity to cover such part, if any, of the expenses of such improvements, the district, in its discretion, unless otherwise mandated by the terms and conditions of the grant from such governmental unit, shall make all or any part of such appropriation available to redeem notes or bonds of the district and shall hold the balance, if any, to the credit of the district to be used for the payment of the expense of such improvements, facilities and for equipment. Bonds or notes issued under this section shall be the general obligations of the district.

That portion, if any, of the budgeted expense for the initial fiscal year and for each subsequent fiscal year which shall be required by the district for the payment of principal and interest on bonds and notes issued or to be issued by the district and which shall be due during the ensuing fiscal year together with those amounts necessary to be raised by the district to maintain and operate the district during said fiscal year for capital outlay items, the costs of which is not otherwise funded, and all other budgeted expenses for which the district is authorized to raise money, the costs of which items the district shall have voted to raise by assessment upon land and improvements of the proprietors within the district shall be the subject of a separate vote at the initial district meeting. If the district so votes, the schedule of assessed valuations of land and improvements established by the boards of assessors in each town for the same fiscal year under the provisions of chapter 59 of the General Laws shall be relied upon as the basis for determination of the pro-rata share of the district budget voted to be raised and appropriated and paid by the proprietors upon their land and improvements within the district.

Following the adjournment of the initial district meeting and each annual district meeting thereafter, the clerk of the district shall certify to the assessors of the town of Leicester and the town of Spencer all sums of money and means of assessment voted upon at such meeting, which votes shall have been adopted by a two-thirds majority as provided in this act, together with the amount to be paid by each proprietor according to the determin-

ation made by such votes. The assessors of the town of Leicester and town of Spencer shall without further vote, assess such amounts upon the lands of the proprietors within the district and commit to the collector of taxes of the town wherein the land is situated, who thereupon shall have and exercise the same powers and duties in relation to the collection of such assessments as he has and exercises relative to the collection of town taxes. The collector shall remit monthly to the district treasurer all sums collected by him on account of such assessments. An assessment made hereunder shall be a lien upon the land assessed by the town under the provisions of section 37 of chapter 60, and other related provisions of the General Laws.

SECTION 14. The fiscal year of the district shall be the same fiscal year as established by the General Laws for cities and towns in the commonwealth.

SECTION 15. Unless otherwise specified in this act, or otherwise required by general law, all actions permitted to be taken at annual or special district meetings shall require a majority vote of those proprietors present in person or by proxy at said meeting and entitled to vote thereat, who shall constitute a quorum in accordance with this act or otherwise by by-law of the district. All actions permitted to be taken by the management committee shall require a majority vote of the committee members present at said meeting who shall constitute a quorum in accordance with this act.

SECTION 16. The district shall include in its initial and in all subsequent annual appropriations, compensation for the board of assessors and the tax collector of the town of Leicester and the town of Spencer, pursuant to the provisions of section 108B of chapter 41 of the General Laws, with respect to their duties and expenses hereunder.

SECTION 17. Notwithstanding their membership on the management committee, neither the town of Leicester nor the town of Spencer, nor any agency or department of the commonwealth shall be obligated for any debts of the district, nor shall they by virtue of this act be required to pay for any liability, obligation or expense made, suffered or incurred by the district. In like manner, the proprietors of the district shall not be individually liable or obligated with respect to debts or other obligations made, suffered or incurred by the district except with respect to the payment of assessments upon their land as provided for in this act.

SECTION 18. No provision of this act shall be deemed to modify or amend any power, authority or jurisdiction now or hereafter vested in any agency, department or unit of state, local or federal government as it relates to the use, operation or enjoyment of Burncoat Pond in any manner, including if applicable, use as a great pond, now available for use by the general public not only for recreational use but for other purposes now or hereafter permitted or required by federal, state and local law, regulation and local by-law.

SECTION 19. The district shall establish in its initial budget and in all subsequent fiscal year budgets an overlay account and a reserve fund as provided for towns under the provisions of section 25 of chapter 59 of the General Laws and section 5C of chapter 40 of the General Laws except for the initial fiscal year, or portion thereof, of the operation of the district, the district may add to the amount to be raised by district assessment a sum voted by the district for not more than 20 per cent thereof for the purposes of and subject to the

limitations as set forth in said section 25 of said chapter 59. The district is further authorized to establish and maintain a stabilization fund under the provisions of section 5B of said chapter 40. The district shall further be subject to an audit of its accounts in the manner provided in section 40 of chapter 44 of the General Laws.

SECTION 20. Immediately upon the formation of the district, the district clerk, shall, in addition to the other duties to be performed by such district officer, cause a review to be made at that time and from time to time thereafter of the records required to be maintained by the boards of assessors for the town of Leicester and the town of Spencer including copies of deeds furnished to said boards by the Worcester district registry of deeds, and shall otherwise take such actions as shall be reasonably necessary to verify the list of proprietors to be included within the district. The clerk shall further cause to be prepared one or more maps based in whole or in part upon the maps required to be maintained by the assessors of said towns on which shall be shown the location of all proprietor's lands initially included as well as those which upon such review should, in the opinion of the district clerk be included within the district. Thereafter, at any special meeting called for that purpose and not later than the next annual meeting, the district clerk shall furnish the management committee with a list of proprietors proposed for inclusion in the district and such maps depicting the approximate location and boundaries of such parcels as well as the existing parcels within the district. The committee shall furnish written notice in the manner provided for furnishing notice to a proprietor of a district meeting to the record owners of such parcels proposed for inclusion in the district. At the district meeting called for such purpose, the district shall, by its vote, determine whether or not its parcel or parcels shall be included within the district and shall furnish the record owners thereof with full opportunity to be heard prior to such vote as though such persons were proprietors of record entitled to vote thereon.

Any original proprietor of the district and any record owner of real estate hereafter included within the district as a proprietor in the manner set forth in this section, shall have the right to petition the district through its management committee for exclusion from the district based upon an alleged lack of sufficient direct benefit to said proprietor's land with respect to the purposes for which the district has been established. Such petition shall be in writing and shall set forth in summary form the reasons relied upon in support thereof. Said committee shall, upon receipt of such petition, conduct such investigation thereof as it shall deem appropriate, and shall at its next regular meeting, or sooner at a special meeting, and upon at least seven days written notice to the petitioner, consider the petition and vote thereon. A vote by the management committee to exclude the land of the petitioner from the district shall be final. In the event that the management committee shall vote to disapprove the petition or shall fail to act thereon prior to the next annual meeting of the district, the petition shall be included in the warrant for said meeting and the district shall vote on same at that time. If the district shall vote to disallow the petition, the petitioner may appeal to the superior court within the county in which the district is located for a remedy. Upon such appeal, said court shall, if the reasons set forth by the petitioner shall be satisfactory to the court, grant such exclusion. Such exclusion, if the petition shall have been filed in writing

therefor prior to December thirty-first of the then current fiscal year, shall result in an abatement of district assessment from the commencement of such fiscal year; provided, however, that such abatement shall not be effective until the commencement of the next fiscal year.

SECTION 21. Once established pursuant to this act, the district shall not dissolve without specific authorization by the general court, which shall not be given until provision has been made for the payment of the obligations of said district. Such dissolution may be initiated by the general court, by two-thirds vote at a regular or special district meeting or by petition by the town of Leicester or the town of Spencer under the provisions of Section 8 of Article LXXXIX of the Amendments to the Constitution of the Commonwealth.

SECTION 22. Proprietors entitled to vote may either in person or by proxy in writing dated not more than six months before the meeting named herein, which proxies shall be filed with the district clerk or the other person responsible to record the proceedings of the meeting before being voted. Unless otherwise specifically limited by their terms, such proxies shall entitle the holders thereof to vote at any adjournment of such meeting. A proxy with respect to any proprietor where the property interest is held in the name of two or more persons shall be valid if executed by any one of them unless at or prior to exercise of the proxy the district receives a specific written notice to the contrary from any one of them. A proxy purporting to be executed by or on behalf of a proprietor shall be deemed valid unless challenged at or prior to its exercise and the burden of proving invalidity shall rest on the challenger. All proxies shall be submitted in the form as follows:

Proxy Form

Date: _____

I/We the undersigned: _____

of _____

being the proprietors of _____

do hereby appoint as our representative this date

of _____

for the purpose of the

Check One:

- _____ Initial Meeting
- _____ Annual Meeting dated _____
- _____ Special Meeting dated _____
- _____ General Appointment from _____ to _____

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(a General Appointment shall not exceed a term of 6 months)

for the Burncoat Pond Watershed District to represent me/us and vote on my/our behalf with full authority and power in my/our stead. The appointment for an Initial and/or Annual Meeting and/or Special Meeting shall continue in full force and effect for the term of the meeting including any continuation or adjournment. This proxy shall be in full force and effect unless revoked in writing and delivered to the Clerk of the Meeting.

Witness: _____

Witness: _____

SECTION 23. This act shall take effect upon its passage; provided, however, that if the initial meeting of the district shall not occur and the certified vote evidencing the establishment of the district shall not be filed with the attorney general within one year after its passage, this act shall cease to be operative.

Approved August 10, 1998.

Chapter 288. AN ACT RELATIVE TO THE DISPOSITION OF CERTAIN STATE OWNED LAND IN THE CITY OF QUINCY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to authorize the conveyance by the commonwealth of a certain parcel of land to the city of Quincy, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law, the parcel of land of the commonwealth specifically described herein, situated in the city of Quincy, having been acquired by the commonwealth for sewerage purposes and currently under the care and control of the Massachusetts Water Resources Authority, is hereby transferred to the city of Quincy, for nominal consideration of one dollar, for parks, recreation and open space purposes. Said parcel located off Fenno street in said city is shown as Lot 1 on a plan to be recorded with the Norfolk county registry of deeds entitled "Plan of Land, Quincy Pump Station, 41 Fenno Street, Quincy, Massachusetts; prepared for Faye, Spofford & Thorndike, date: March 6, 1998, scale: 1"=20'" prepared by Judith Nitsch Engineering, Inc., being bounded and described as follows:

Beginning at a point on the easterly boundary of the Commonwealth of Massachusetts; thence

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N 87° 05' 07" W a distance of one hundred three plus or minus feet (103'±) to a point; thence

Northwesterly curving to the right along an arc of a curve having a radius of twenty-five and zero hundredths feet (25.00') and a length of thirty-one and ninety-nine hundredths feet (31.99'); thence

N 13° 45' 48" W a distance of fifty-five and eight hundredths feet (55.08') to a point; thence

N 37° 17' 40" W a distance of twenty-nine and nine hundredths feet (29.09') to a point; thence

N 31° 57' 09" W a distance of thirty-six and twenty hundredths feet (36.20') to a point; thence

S 86° 57' 01" E a distance of thirty and zero hundredths feet (30.00') to a point; thence

S 40° 37' 45" E a distance of forty-one and zero hundredths feet (41.00') to a point; thence

S 88° 02' 45" E a distance of one hundred twenty and zero hundredths feet (120.00') to a point; thence

S 51° 21' 58" E a distance of one hundred forty plus or minus feet (140'±) to a point. Said point is intended to coincide with the Northeasterly boundary of the Commonwealth of Massachusetts; thence

Southwesterly along arcs of curves having a total length of one hundred sixteen plus or minus feet (116'±) to the point of beginning.

The above described parcel of land contains an area of 18,390± square feet as shown on said plan. For title reference, see taking of the Commonwealth of Massachusetts Metropolitan Water and Sewerage Board dated March 26, 1901 recorded with Norfolk county registry of deeds in Book 892, Page 507.

The conveyance of said parcel shall be made subject to the right of the Massachusetts Water Resources Authority to enter onto said parcel at any time and from time to time for a period of five years from the date of enactment hereof for purposes associated with the demolition of the existing sewerage pumping station currently located on a portion of said parcel.

SECTION 2. The transfer pursuant to section 1 shall be made only if the mayor and city council of the city of Quincy, acting for and on behalf of said city, notwithstanding any general or special law, convey by fee simple deed to the commonwealth, under the jurisdiction and control of the Massachusetts Water Resources Authority, for nominal consideration of one dollar, for the purpose of the development, construction and maintenance of facilities for the improvement of the metropolitan area sewerage system under the care and control of said authority, a certain parcel of land situated in said city and currently under the care and control of the Quincy parks department, having been acquired by said city for parks, recreation and open space purposes. Said parcel of land located off Fenno street in said city of Quincy is shown on the above referenced plan as Lot 2 and is bounded and described as follows:

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Beginning at a point having a northing coordinate value of 2,921,443.53 and an easting coordinate value 789,236.89; thence

N 87° 05' 07" W a distance of twenty and zero hundredths feet (20.00') to a point; thence

S 02° 54' 53" W a distance of thirty-five and sixty-five hundredths feet (35.65') to a point. Said line is coincident with a twenty foot easement; thence

N 50° 36' 40" W a distance of fifty-nine and ninety-seven hundredths feet (59.97') to a point; thence

N 87° 05' 07" W a distance of thirty-one plus or minus feet (31'±) to a point. Said point is intended to coincide with the southwesterly boundary of the Commonwealth of Massachusetts; thence

Northeasterly thence northwesterly, and northeasterly along arcs of curves having a total length of one hundred sixty-eight plus or minus feet (168'±) to a point. Said line is coincident with easterly boundary of the Commonwealth of Massachusetts; thence

S 87° 05' 07" E a distance of forty-one plus or minus feet (41'±) to a point; thence

S 02° 54' 53" W a distance of one hundred twenty-four and zero hundredths feet (124.00') to the point of beginning.

The above described parcel of land contains an area of 9,350± square feet as shown on said plan. For title reference, see deed of Charles Francis Adams dated October 27, 1885 recorded with Norfolk county registry of deeds in Book 572, Page 282.

SECTION 3. Within 60 days of the effective date of this act and upon the transfer pursuant to section 1, the city of Quincy shall record in the Norfolk county registry of deeds a certificate executed by the mayor of said city and witnessed by a notary public, confirming that as of the date hereof, said city is the owner of record of the parcel of land described in section 1. A copy of this act and a copy of the above described plan shall be recorded as an attachment to this certificate.

Approved August 10, 1998.

Chapter 289. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 1998 TO PROVIDE FOR CERTAIN CAPITAL AND SUPPLEMENTAL APPROPRIATIONS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to make appropriations for various capital improvements and other one time costs and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations and to meet certain requirements of law, the sums set forth herein are hereby appropriated from the Capital Improvement and Investment Trust Fund for the several purposes and subject to the conditions specified herein and subject to the provisions of law regulating the disbursement of public funds. Notwithstanding the provisions of any general or special law to the contrary, appropriations made in section 2 shall not expire until June 30, 2000.

SECTION 2.

SECRETARY OF THE COMMONWEALTH.

State Secretary.

- 0521-1982 For costs associated with the central voter registry system established pursuant to chapter 475 of the acts of 1993 including software development costs and municipal hardware upgrades \$2,770,607
- 0526-8998 For a program of matching grants to units of municipal government and to private, nonprofit organizations for the preservation of historic properties, landscapes and sites; provided, that such funds shall be awarded in accordance with regulations promulgated by the state secretary in his capacity as chairman of the Massachusetts historical commission; provided further, that \$100,000 shall be expended from this item for the Brook Estate Restoration project in the city of Medford; provided further, that \$500,000 shall be expended for repairs and improvements to Stetson Hall in the town of Randolph; provided further, that \$150,000 shall be expended for the purposes of the Quinebaug and Shetucket Rivers Valley Heritage District project, so-called; provided further, that \$150,000 shall be expended for the additional expenses of the Framingham Hollis Street Fire Station Project, so-called; provided, however, that said \$150,000 shall be in addition to funds previously appropriated for the purposes of said project; provided further, that \$50,000 shall be expended for repairs and improvements to the Wilbraham Grange Hall in the town of Wilbraham; provided further, that \$100,000 shall be expended for the Tenney Park Land Restoration Project, so-called; and provided further, that expenditures made for all of the projects explicitly referenced in this item shall be made notwithstanding the provisions of any general or special law or rule or regulation to the contrary;

provided further, that \$50,000 shall be expended for repairs and improvements to the historic Easthampton town hall in the town of Easthampton; provided further, that not less than \$420,000 shall be expended for improvements to the Soldiers and Sailors memorial building in the city of Melrose; and provided further, that \$40,000 shall be made available for restoration of the Saugus town hall mural located in the town of Saugus \$7,000,000

TREASURER AND RECEIVER-GENERAL
Massachusetts Cultural Council.

0640-8998 For a contract with the Cape Cod Symphony Orchestra in the town of Barnstable and Shea's Theater in the town of Montague; provided, that \$25,000 shall be expended for a stage lift, shell, and lighting equipment for said Cape Cod Symphony Orchestra; provided further, that \$40,000 shall be expended for heating and cooling systems the Shea Theater in the town of Montague; provided further, that in return for the receipt of the funds appropriated herein, the entities reference herein shall agree to provide in perpetuity free or reduced rate public programs or services to the citizens of the commonwealth \$65,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.
Division of Capital Asset Management and Maintenance.

1102-1981 For the costs associated with emergency deferred maintenance and repairs to court facilities owned by the commonwealth; provided, that not more than \$110,000 shall be expended for the construction and installation of a parking area for use by the Ayer district court;, provided further, that not more than \$118,000 shall be expended for the installation of an air conditioning system in the Franklin county courthouse; provided that not more than \$150,000 shall be expended for the construction and installation of a parking area for use by the Lowell district court \$378,000

1102-1982 For the costs associated with emergency deferred maintenance and repairs to capital assets owned by the commonwealth at state institutions of higher education; provided, that \$100,000 shall be made available to the Springfield Technical Community College Corporation to defray the cost of relocating SpringBoard Technology on the campus

of said community college; provided further, that any expenditure from this item shall include, but not be limited to, deferred maintenance and related projects at the university of Massachusetts, institutions within the state college system, and institutions within the community college system; provided further, that any operating funds previously budgeted for capital purposes shall continue to be used for the capital improvements for which they were budgeted; provided further, that priority be given to those projects deemed by the commissioner of the division of capital assets management and maintenance to be emergency in nature and the most cost-effective to effectuate; provided further, that not more than \$1,820,000 shall be expended for the replacement of or repair to the underground steam distribution system at Bristol community college; provided, further, that the amount of \$575,000 shall be expended for site work for student parking, underground utilities improvements, exterior fencing, and exterior security lighting improvements at Quinsigamond community college in Worcester; provided, further, that notwithstanding the provisions of section 40B of chapter 7 of the General Laws, the commissioner of said division may, upon the request of a state agency or building authority, delegate project control and supervision to that state agency or building authority over projects funded from this item whose estimated cost is less than \$500,000 if said commissioner determines that the agency or authority has the ability to control and supervise such project; and provided, further, that funds for such emergency deferred maintenance and repair projects may be expended notwithstanding the provisions of sections 39B to 40N, inclusive, of chapter 7 of the General Laws whenever the total cost of such project is \$500,000 or less \$2,495,000

1102-1988 For the preservation of historical naval vessels entrusted to the people of the commonwealth and memorializing the contributions of Massachusetts veterans; provided, that of the amount appropriated herein, up to \$10,000,000 shall be expended for the one-time costs of repair, renovation and overhaul of the USS Massachusetts, which is under the care and custody of the USS Massachusetts Memorial Committee, Inc. and is berthed in the Battleship Massachu-

setts World War II memorial located at Battleship Cove in the port of Fall River; provided, however, that said Committee shall without charge, admit organized school groups for a period of five years while said vessel is berthed in Battleship Cove; provided, further, that all such repairs, renovations, and overhauling shall be performed within the commonwealth; provided, further, that upon completion of any such repairs, renovations and overhauling, said vessel shall immediately return to the Battleship Cove, which shall serve as the official home port of the vessel; provided, further, that any unexpended balance of said \$10,000,000 shall be made available for any one time repairs of other naval vessels berthed in said cove; provided, further, that not more than \$2,050,000 of said amount shall be expended for the rehabilitation and preservation of the USS Salem berthed in the Fore River, including, but not limited to, replacement of deteriorated deck sections, replacement of boiler condensate hose system, rehabilitation of gangways, repair and painting of the superstructure, so-called, repair and painting of the hull and boot topping, so-called, and repair of exterior deck lighting systems \$12,050,000

1102-7997 For a one-time payment for the repair and renovation of the Massachusetts Building at the Eastern States Exposition in the town of West Springfield as authorized in item 6033-9799 of section 2B of chapter 11 of the acts of 1997. . . . \$1,300,000

Department of Revenue.

1232-5995 For the removal of underground storage tanks in the town of Florida \$40,000

Department of Veterans' Services.

1410-7997 For the full state share of costs associated with the establishment of the Massachusetts veterans' cemetery in the town of Winchendon; provided, that the amount appropriated herein shall leverage federal funding secured by the department of veterans services for the same purposes; and provided further, that notwithstanding the provisions of section one, amounts appropriated herein shall be available for said purposes through fiscal year 2001 \$3,205,000

1410-8998 For the construction of a state Vietnam Veterans War Memorial in the city of Worcester \$500,000

Reserves.

- 1599-1985 For costs related to environmental remediation projects undertaken by state agencies pursuant to executive order 350, the governor's clean state initiative, so-called; provided, however, that not more than \$3,700,000 shall be expended for site remediation at the Belchertown state school; provided, further, that not more than \$1,500,000 shall be expended for the removal of asbestos at the University of Massachusetts Amherst; and provided further, that \$19,995 be expended for a pilot project to acquire a trailer mounted prover for checking the accuracy of liquid measuring devices in the towns of Duxbury, Hanson, Pembroke and Marshfield \$5,219,995
- 1599-1986 For a contract with the Nantucket Ice Organization, so-called, to assist in the construction of an ice skating facility on the island of Nantucket; provided, that said organization shall contribute an amount at least equal to the amount appropriated herein for the purposes of constructing said ice skating facility; provided further, that said organization shall allow the residents of the commonwealth use of said ice skating facility at a reduced rate of admission \$2,000,000
- 1599-1987 For a reserve to initiate the capital planning program, so-called, for the secondary school program at Essex Agricultural and Technical Institute \$1,500,000

Information Technology Division

- 1790-1981 For the development of a disaster recovery plan, including a back up computer center for the commonwealth's critical computer systems; provided, however, that said plan shall include, but not be limited to, a description of the proposed site for said back up computer center within the military division headquarters in Milford, a proposed fee structure for the agencies which will use said back up center, the costs and a detailed time table for each phase of implementation, the annual operating expenses of said back up center detailed by subsidiary and object code, recommendations for alternative locations for said back up center; and provided further, that the division shall file a copy of said plan with the house and senate committees on ways and means no later than January 15, 1999 \$100,000

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- 1790-1983 For certain costs associated with the development and implementation of the commonwealth's human resources and compensation management system, so-called \$14,200,000
- 1790-8998 For expenses of projects to correct the date-handling logic problems, so-called, in critical commonwealth computing systems in order to sustain uninterrupted operations through the calendar year 2000 and beyond; provided, that the secretary of administration and finance may transfer funds from this item to other items of appropriation and allocations thereof in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; provided further, that said secretary shall file a quarterly report with the house and senate committees on ways and means delineating by agency and project the amounts which have been expended or transferred from this item, the status of such projects, anticipated completion dates of such projects and estimates of any additional funds necessary for the completion of such projects; and provided further, that any and all federal reimbursements which result from expenditures made from this item or from funds which have been transferred or allocated from this item shall be credited to the General Fund \$20,400,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Office of the Secretary.

- 2000-1983 For a one time reimbursements to certain communities for open space land acquisitions; provided, that \$622,343 shall be made available to the town of Harwich for the hawks nest, so-called, open space land acquisition, pursuant to the 1988 acquisition and management agreement between the town of Harwich, the division of conservation services, the department of environmental management, the nature conservancy and the department of fisheries, wildlife and environmental law enforcement; provided further, that \$350,000 shall be made available to the town of West Newbury for acquisition of an eight and one-half acre parcel known as the Daly property, or lot #33 Main street, so-called, in said town; provided further, that said parcel shall be used for recreational purposes; and provided further, that \$500,000 shall be made available to the town

	of Westwood for a one time reimbursement for the Lowell Property, so-called, land acquisition pursuant to an agreement between the town and the Lowell family, for the purposes of conservation and recreation; and provided further, that such reimbursement shall represent the commonwealth's total commitment in such land acquisition	\$1,472,343
2000-7997	For costs associated with a certain water treatment plant in the town of North Attleboro; provided, that said plant shall be capable of treating or removing volatile organic compounds and iron; provided further, that said treatment plant shall serve at least one well located in the town of Plainville; provided further, that said treatment plant shall serve not less than five wells in the town of North Attleboro	\$3,908,000
2000-7998	For a grant to the Massachusetts Water Resources Authority to finance a comprehensive and complete analysis of providing permanent supplemental water service to the south shore communities of Avon, Braintree, Brockton, Canton, Holbrook, Randolph, Stoughton and Weymouth in order to meet said communities' additional water needs; provided, that said analysis shall include a complete exploration of the capital improvements and design costs necessary to implement said service; and provided further, that said analysis shall be submitted to the house and senate committees on ways and means no later than November 1, 1998	\$500,000
2000-8998	For the purchase of certain properties to enhance the environmental beauty of the commonwealth; provided, that the secretary of environmental affairs, acting by and through the metropolitan district commission, shall purchase a certain parcel of land containing approximately seven acres which is situated in the Jamaica Plain section of the city of Boston and borders a portion of the Frederick Law Olmstead Emerald Necklace	\$3,500,000
2040-1981	For a proportional reimbursement for debt service costs attributable to the installation of certain air pollution control and related equipment or the cost of closing of the North Andover North East Solid Waste Committee energy to waste plant as required by the United States Environmental Protection Agency "Standards of Performance for New	

Stationary Sources and Emission Guidelines for Existing Sources: Municipal Waste Combusters" (40CFR60) pursuant to section 129 of the Clean Air Act amendments of 1990; provided, however, that the city of Peabody and the towns of Acton, Andover, Arlington, Bedford, Belmont, Boxborough, Burlington, Carlisle, Dracut, Hamilton, Lexington, Lincoln, Manchester, North Andover, North Reading, Tewksbury, Watertown, Wenham, Westford, West Newbury, Wilmington and Winchester shall be eligible to receive said proportional reimbursement; provided, further, that any amounts provided from this item shall be in addition to and shall not replace any amounts currently appropriated by said cities and towns for said debt service costs; and provided, further, that any amount provided from this item shall be solely for the purposes of this item; provided, further, that notwithstanding the foregoing, if the said energy to waste plant should be closed because of environmental factors the amounts provided from this item shall continue to be paid to the above named cities and towns \$3,000,000

Department of Environmental Management.

- 2100-301 For the planning, design, permitting, and implementation of flood mitigation and environmental restoration projects in the Muddy River in the city of Boston and the town of Brookline \$1,500,000
- 2120-6996 For a comprehensive inventory of those remaining landscapes in the commonwealth which, because of such landscapes' scenic, historic and cultural importance, should be preserved for future generations \$1,000,000
- 2120-7997 For repairs and improvements to seawalls, dams, and waterways; provided, that the department of environmental management shall effect repairs and improvements to the Wallum lake boat ramp at Douglas state forest, publicly-owned dams at the Hamilton Reservoir, and in the towns of Carver, Halifax, Kingston and Plymouth; provided further, that \$75,000 shall be expended for flood mitigation in the Reedy Meadow area in the towns of Lynnfield, Wakefield, and Saugus; provided further, that said expenditure shall be contingent upon the expenditure of \$25,000, in the aggregate, by said towns on said flood mitigation

project; provided further, that \$52,500 shall be expended for phase three, so-called, for the improvement and preservation of the Craigville pond and Centerville river system, known as the Red Lily Pond Restoration Project; provided further, that the department shall enter into contracts with said Red Lily Pond Restoration Project; provided further, that \$650,000 shall be expended for the state share of engineering, study and design for construction of a seawall in the town of Marblehead; provided further, that \$1,000,000 shall be expended to eradicate nonnative aquatic plant life, including \$15,000 for such eradication efforts at Warners pond in the town of Concord and \$15,000 for such eradication efforts at Mirror lake in the towns of Norfolk and Wrentham; provided further, that not more than \$100,000 shall be expended for eradication of eurasian watermilfoil in those portions of the Congamond lakes located within the commonwealth in the town of Southwick; provided further, that \$50,000 shall be expended for the treatment of algae and removal of siltation at Winter pond along the Aberjona river in the town of Winchester; provided further, that \$100,000 shall be expended to mitigate erosion problems at Kitchen brook in the town of Cheshire; provided further, that \$20,000 shall be expended to repair the wing wall, so-called, at the Wild Acres wildlife sanctuary in the city of Pittsfield; provided further, that not more than \$580,000 shall be expended for a boat ramp facility on the Merrimack river in the city of Lowell including, but not limited to, the development of design and engineering plans, site preparation, construction and installation of double boat ramp, trailer spaces, a parking area, a headwall, drainage pipes, curbing and other amenities; provided further, that \$140,000 shall be expended for the completion of the river walk, so-called, along the Ipswich river in the town of Ipswich; provided further, that not more than \$5,000,000 shall be expended for the repair of sea walls and other coastal structures in the towns of Marshfield, Scituate and Braintree; provided further, that not more than \$400,000 shall be expended on the repair of the Foundry Pond Dam in the town of Hingham; provided further, that not more than \$30,000 shall be made available for the repair of

Blood Pond Dam in the town of Hopkinton; provided further, that not more than \$100,000 shall be made available for the repair or rehabilitation of the Doublebrook Dam in the town of Middleborough; provided further, that not more than \$70,000 shall be made available, in addition to funds made available in item 2095-8968 of chapter 277 of the acts of 1995 for the repair and reconstruction of the dam at Lake Monomonac in the town of Winchendon; provided further, that not less than \$100,000 shall be earmarked for repairs to dams at Forge Pond and at the Carver Cotton Gin in the town of East Bridgewater; provided further, that not less than \$48,000 shall be expended for repairs to the Marino Pond Dam in the town of Dudley for completion of construction and rehabilitation of the low-level gate and surrounding area; provided further, that not less than \$200,000 be expended for the engineering, design, and reparation of the Glenn Echo Dam located in the town of Charlton; and provided further, that the department shall expend funds to pay 70 per cent of the total cost for the repair and renovation of the Ellis Pond Dam in the town of Norwood \$9,257,750

2120-8998 For improvements to parks and other facilities as provided herein; provided, that \$500,000 shall be expended for the acquisition of a weed harvester for use by the city of Springfield, the town of East Longmeadow and the Wilbraham parks department for use in the ponds, lakes and other waterways in the greater Springfield area; provided further, that \$775,000 shall be expended for repairs and improvements at Blunt park in the city of Springfield; provided further, that \$115,000 shall be expended for repairs to the Senator P. Eugene Casey memorial pool in the town of Milford; provided further, that \$150,000 shall be expended for repairs and improvements to the Ames Nowell state park in the town of Abington; provided further, that \$100,000 shall be expended for repairs and improvements to Sunset lake park in the town of Braintree; provided, however, that expenditure of said \$100,000 shall be subject to a funding match from said town of Braintree; provided further, that \$179,450 shall be expended for repairs and improvements to the Olmstead park in the town of Wareham; provided

further, that \$250,000 shall be expended for the construction of certain facilities on the visitor's picnic beach, so-called, at Clarksburg State Forest; provided further, that funds shall be expended from this item for a study of the feasibility of restoring the Jug end pond in the Jug end state reservation in the town of Egremont to a viable swimming pond; provided further, that \$1,200,000 shall be expended for repairs, improvements, and the restoration of the Walter Baker Administration Building, so-called, in the Dorchester section of the city of Boston; provided further, that \$185,000 shall be expended for the purchase of a brush breaker, so-called, to be housed in the town of Carver and utilized for the department of environmental management's forests and parks in the vicinity of said town; provided further, that not less than \$150,000 shall be expended for the repair and renovation of the boathouse at Regatta point in the city of Worcester; provided further, that not less than \$300,000 shall be expended for the repair and renovation of Green Hill park in the city of Worcester; provided further, that not less than \$100,000 shall be granted to the city of Quincy for the purpose of rehabilitation and restoration of a Frederick Law Olmstead-designed park, known as Merrymount park, in said city; provided further, that \$40,000 shall be expended for repairs and improvements to the pavilion, so-called, at the Mount Tom state reservation; provided further, that not less than \$175,000 shall be expended for the planning, design, engineering, and construction of a handicap accessible pier, including associated parking and amenities, located at Silver Lake in the town of Wilmington; provided further, that not less than \$50,000 shall be expended for the design and repair of the historic one-room schoolhouse at Moore State Park in the town of Paxton; provided further, that not less than \$150,000 shall be expended for the rehabilitation, repair, and/or upgrading of the athletic field, walking track, and related projects at Quinsigamond State Park in the city of Worcester; provided further, that not less than \$300,000 shall be expended to replace the wading pool in Warren Manning state park; and provided further, that not more than \$1,000,000 shall be expended for the repair of the cooling

system at Hetland Memorial Rink in the city of New Bedford \$8,030,950

Department of Environmental Protection.

- 2200-1982 For the upgrade and replacement of laboratory equipment at the Senator William X. Wall experiment station laboratory including, but not limited to, an automated bacterial colony counter, an epifluorescence microscope, a conductivity meter, fume hoods, a stomacher laboratory blender, a gas chromatograph/mass spectrometer, an ion chromatograph; and an auto analyzer \$190,400
- 2200-5995 For the purchase of equipment associated with phase II of the environmental results program, so-called \$296,000
- 2200-6996 For the design phase of the municipal sewer project, so-called, in the town of Millville \$26,000
- 2200-7997 For an independent hydrogeological study of issues related to the siting of a sanitary landfill in the town of Douglas pursuant to the provisions of section 21 \$200,000
- 2200-8998 For the implementation of a program of outcome-based monitoring of the impact of the effluent discharge from the Massachusetts Water Resources Authority's sewerage treatment plant diffusers in Massachusetts bay on the early benthic phase lobster recruitment including, but not limited to, studies of: (a) chronic toxicity testing of caged early benthic lobsters; (b) early benthic phase lobster distribution and abundance; and (c) movement and distribution of egg-bearing female lobsters; provided, that such studies shall be undertaken before and after said Authority's sewerage treatment plant diffusers begin discharging effluent \$500,000
- 2260-5995 For the remediation of the toxic trichloroethylene plume in the towns of Needham and Wellesley that has migrated from the Microwave Development Laboratories site, so-called, in said town of Needham \$1,200,000
- 2260-6996 For a full environmental assessment of the railroad depot site, so-called, in the downtown area in the city of New Bedford. \$750,000

Department of Fisheries, Wildlife, and Environmental Law Enforcement.

- 2320-6996 For the design, repair, reconstruction or relocation of boating access ramps, the design and construction of a barrier-free float system, the construction of a barrier-free sportfishing

pier, and the installation of signage on the property of the metropolitan district commission at gates 8 and 31 at the Quabbin reservoir \$80,000

Metropolitan District Commission.

- 2440-1982 For the repair and rehabilitation of various fish ladders and water aeration systems; provided, that not more than \$325,000 shall be expended for the fish ladder at the Charles River dam and the replacement of the aeration system in the Charles River basin; provided, further, that not more than \$75,000 shall be expended for the fish ladder system in the town of Kingston; provided, further, that not more than \$75,000 shall be expended for the fish ladder system in the town of Pembroke; and provided, further, that the commissioner shall submit a comprehensive plan for the long term maintenance and upkeep of said fish ladders and aeration system to the house and senate committees on ways and means no later than January 15, 1999 \$475,000
- 2495-7997 For the purchase of no less than 70 acres of land located in the town of Belmont to be used as open space in connection with the reuse plans, so-called, for the McLean Hospital Site; provided, that said land shall be in close proximity to the Beaver Brook reservation; provided further that land acquired with the funds appropriated herein combined with any matching funds contributed from other sources for the purposes of this land acquisition shall be owned and under the jurisdiction of the metropolitan district commission; provided further, that said purchase shall provide for the acquisition by the said commission in fee simple absolute; provided further, that said commission shall not pay an amount greater than the fair market value for any land acquired with the funds appropriated herein; provided further that land acquired using funding appropriated herein shall only be used to create open space for passive public recreation use \$3,000,000
- 2495-8998 For improvements to properties of the commission including, but not limited to, skating rinks, swimming pools, roadways, playgrounds and park facilities; provided, that, notwithstanding the provisions of any general or special law, rule or regulation to the contrary, with respect to all

activities, including procurement and contract management, required for the purposes of this item and funded by the amount appropriated herein, all authorities and responsibilities normally belonging to the division of capital asset maintenance and management shall belong solely to the commission; provided further, that the commission shall conduct all such activities in a manner consistent with the best interest of the commonwealth and according to sound business practice; provided further, that the commission shall file bimonthly reports detailing all encumbrances and expenditures of funds appropriated herein, and the status of all repairs to be funded from this item, with the secretary of environmental affairs, the secretary of administration and finance and the house and senate committees on ways and means; provided further, that no funds appropriated herein shall be expended for any personnel or administrative costs of the commission; provided further, that not less than \$1,472,000 shall be expended for the design and replacement of the rink bed and other necessary improvements at the Veterans memorial rink in the city of Somerville; provided further, that not less than \$400,000 shall be expended for the purposes of renovations, repairs, including roofing, maintenance and safety improvements, to the Melnea Cass pool and rink in the Roxbury section of the city of Boston; provided further, that \$180,000 shall be expended for the design, rehabilitation, construction and equipment, including construction of a children's play area in Hill park within the city of Revere; provided further, that \$775,000 shall be expended for the design and construction of the Mystic lake dam restoration project in the town of Winchester and the city of Medford; provided further, that an amount shall be expended for the purchase of the Skaza property, so-called, in the Swift river flood plain; provided further, that \$50,000 shall be expended for phase I site analysis and preliminary restoration of the Zoppo property, so-called, in the town of Winthrop; provided further, that \$170,000 shall be expended for a study, including engineering plans, for repairs or replacements to the earthen dam and sluice gate at Ponkapoag pond in the towns of Canton and Randolph; provided further, that not

more than \$400,000 shall be expended to rebuild the Ponkapoag boardwalk in the Blue Hill Reservation on Ponkapoag road in the towns of Canton and Randolph; provided further, that said boardwalk shall be constructed at least two feet above the high water mark and shall be in compliance with the Americans with Disabilities Act; provided further, that \$350,000 shall be expended to rehabilitate and make handicapped accessible the bathhouse of the McCrehan pool in the city of Cambridge; provided further, that \$180,000 shall be expended for renovations and replacement of existing structures and filtration fountains owned by the metropolitan district commission at Fellsmere pond in the city of Malden; provided further, that not less than \$150,000 shall be expended for the general rehabilitation of Bryan skating rink; provided further, that \$200,000 shall be expended for repairs and improvements to the Ward bath house in the town of Nahant; provided further, that \$200,000 shall be expended for the construction of a multipurpose recreational field on commission properties in the town of Southborough; provided further, that \$200,000 shall be expended for repairs and improvements to McMorrow playground in the Dorchester section of the city of Boston; provided further, that \$50,000 shall be expended to repair and replace the fencing and backstops at Santoro field in the city of Medford; provided further, that \$2,900,000 shall be expended for repairs and improvements to the Arlington veterans' memorial skating rink; provided further, that \$100,000 shall be expended for repairs and improvements to Connors memorial pool in the city of Waltham; provided further, that \$150,000 shall be expended to install street lights on Norumbega road in the town of Weston; provided further, that, law or this item to the contrary, \$1,500,000 shall be provided to the city of Lynn for the costs associated with the design and repair of Fraser field in said city; provided further, that not less than \$40,000 shall be expended by the commission working in concert with the public access board towards the planning, design and engineering of, but not limited to, a deepwater pier, parking lot and boat ramp of said commission's property in the Hough's Neck section of the city of Quincy referred to

as Hurley's boat yard; provided further, that not more than \$40,000 shall be expended for the costs associated with conducting a historic structures and programming report for the Brook Farm Print Shop at the Brook Farm historic site in the West Roxbury section of the city of Boston; provided further, that not less than \$2,500,000 shall be expended on repairs and construction at the Steriti Rink in the North End section of the city of Boston; provided further, that not more than \$6,000,000 shall be expended for the replacement of the Connell rink and pool with a pilot project to test the feasibility of the multi-purpose recreational complex known as a Balfour rink; and provided further, that not less than \$800,000 shall be expended for the costs associated with the replacement of the roof of the Kasabuski Memorial Ice Rink \$19,007,000

Department of Food and Agriculture.

- 2511-6996 For sundry improvements to the facilities which provide support through the emergency food assistance program pursuant to the provisions of item 2511-0105 of section 2 of the general appropriations act for fiscal year 1999; provided, that \$50,000 shall be obligated for the Framingham Civic League; provided further, that \$70,000 shall be obligated for the Merrimack Valley Food Bank \$120,000
- 2511-8998 For a program to acquire agricultural preservation restrictions pursuant to sections 11A to 11D, inclusive, of chapter 132A of the General Laws; provided, that any person or entity who receives funds from the amounts appropriated herein shall be encouraged to participate in programs of the department of food and agriculture as may be suggested by the commissioner of said department; provided further, that such programs may include, but not be limited to, integrated pest management, pesticide regulation and reduction and agricomposting; provided further, that the agricultural lands preservation committee shall prioritize the allocation of funds from this item for the acquisition of agricultural preservation restrictions on those lands deemed to be of significance to the protection and preservation of the commonwealth's agricultural base; and provided further, that in determining that significance, said committee shall consider the agrarian character of the com-

community in which the lands are located and the degree
to which the acquisition would serve to preserve that
character \$1,500,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Division of Medical Assistance.

4000-8998 For medicaid payments made to hospitals under the control of
the department of public health for Title XIX reimbursable
services provided, that expenditures made from this item
shall not result in recurring liabilities to the commonwealth
in future fiscal years; provided further, that no funds
appropriated herein shall be expended for the compensa-
tion of state employees or employees under contract with
the commonwealth; provided further, that said department
shall reimburse the General Fund through an intergovern-
mental funds transfer in the amount of \$5,000,000 pursuant
to this item; provided further, that said department shall
expend the of funds it receives pursuant to this item for
purchase of equipment, and for improvements to
equipment and capital assets of said hospitals; provided
further, that not later than August 15, 1998, the department
shall submit a report to the house and senate committees
on ways and means delineating all planned and actual
expenditures to be made for said purchases for and
improvements to such hospitals; and provided further, that,
notwithstanding the provisions of section 1 or any other
general or special law to the contrary, funds appropriated
herein shall be available for expenditure until June 30,
1999 \$10,000,000

Massachusetts Commission for the Blind.

4110-1982 For equipment for the manufacture of mops and brooms at
Ferguson industries for the blind \$36,000

Department of Transitional Assistance.

4400-8998 For the acquisition of computer software for the BEACON
project, so-called \$1,184,500

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Department of Highways.

6037-0010 For projects for construction and reconstruction of town and
county ways as described in subdivision (a) of clause (2) of

the first paragraph of section 34 of chapter 90 of the General Laws; provided, however, that a city or town shall comply with procedures established by the department of highways; provided further, that any such city or town may appropriate for such projects amounts not in excess of the amounts provided to such city or town under this item; provided further, that said appropriation shall be considered as an available fund upon the approval of the commissioner of revenue pursuant to section 23 of chapter 59 of the General Laws; and provided further, that the commonwealth shall reimburse such city or town under this item within 30 days of receipt by the department of a request for reimbursement from such city or town, which request shall include certification by such city or town that actual expenses have been incurred on projects eligible for reimbursement under this item and that the work has been completed to the satisfaction of such city or town according to the specifications of such project and in compliance with applicable law and procedures established by the department \$100,000,000

6037-8998 For sundry roadway projects as provided for in this item; provided, that \$3,000,000 shall be expended for the design and engineering of state highway route 18 in the downtown area of the city of New Bedford; provided further, that \$28,600 shall be expended for the reconfiguration and signalization of the intersection of West Boylston and Grove Street in the city of Worcester; provided further, that \$200,000 shall be expended for a traffic study of state highway route 109 in the town of Medway; provided further, that \$1,900,000 shall be expended for the Chestnut Street Turn-Back Project, so-called, in the town of Needham; provided further, that upon completion of said turn back project the town of Needham shall be required to perform all future maintenance on said road; provided further, that \$900,000 shall be expended for the infrastructure projects, including water and sewer, for the 126 corridor in the town of Ashland; provided further, that not less than \$360,000 shall be expended for traffic signalization projects at the intersections of route 4 and Dalton Road and at the three way intersection, so-called, of route 4, Davis Road and Parkhurst Road all in the town of

Chelmsford; provided further, that \$336,000 shall be expended for structural reinforcements of the Bolivar Street public works garage in the town of Canton; and provided further, that \$130,000 shall be expended for the purposes of cleaning the storm drain discharging into the southwest corner of spy pond in the town of Arlington and for the removal of the existing sandbar in said spy pond \$6,854,600

BOARD OF LIBRARY COMMISSIONERS.

- 7000-1981 For first year funding of a three year plan for automated network technology for libraries to provide internet accessibility to workstations in member libraries, to provide full multimedia access to electronic library information resources, and to extend internet protocol addresses to workstations in libraries not previously affiliated with automated networks \$1,500,000
- 7000-7997 For matching grants for repairs and improvements to the library of last recourse; provided, that notwithstanding the provisions of any general or special law to the contrary, an amount not to exceed \$8,000,000 shall be made available subject to a 50 per cent matching contribution from funds raised through private contributions to the library of last recourse to complete the McKim restoration project, so-called; provided further, that an additional \$2,000,000 shall be made available subject to a 50 per cent matching contribution through funds raised through private contributions and a 100 per cent match from the city in which said library of last recourse is located for said McKim restoration project in the event that said \$8,000,000 has been committed \$10,000,000
- 7000-8998 For grants to cities and towns for approved public library projects as authorized by sections 19G to 19I, inclusive, of chapter 78 of the General Laws; provided, that such grants shall only be awarded for projects which have commenced after April 10, 1996 \$23,548,000

OFFICE OF LABOR, EDUCATION, AND WORKFORCE DEVELOPMENT.

Department of Housing and Community Development.

- 7004-8975 For the demolition of certain abandoned buildings which represent a severe public health and safety risk, as authorized in item 3722-9950 of section 2B of chapter 277 of the acts

of 1995; provided, that not more than \$3,000,000 shall be expended for the demolition and site remediation of the Photech building site, so-called, in the town of Williamstown; provided further, that \$200,000 shall be expended for the demolition of the Old Kendall Mill, so-called, in the town of Colrain; provided further, that not less than \$750,000 shall be expended for the demolition of abandoned buildings in the city of Lawrence; provided further, that not less than \$1,500,000 shall be expended by the department of housing and community development for demolition and removal of buildings at the West Broadway Housing Development in the South Boston section of the city of Boston; and provided, further, that not more than \$30,000 shall be expended for the demolition of abandoned buildings, which pose a serious health and safety risk, at 1551, 1553 and 1555 Main Street in the city of Worcester \$5,480,000

7004-8976 For state financial assistance in the form of community development action grants by the commonwealth acting by and through the department of housing and community development pursuant to section 57A of chapter 121B of the General Laws; provided, that not less than \$2,250,000 shall be made available as a one time grant to the city of Pittsfield for deposit in a fund to be established on the books of said city known as the Pittsfield Community Redevelopment Fund, which shall be used exclusively for the purposes of restoration, construction, expansion or repair of said city's land, buildings, parks and recreational areas, cultural, entertainment, public venue or commercial facilities; provided further, that said fund shall be administered by the mayor for the city of Pittsfield, with recommendations from the city council; provided, further, that not more than \$2,225,000 shall be expended for the construction and design of a project to extend an existing sewer main to an industrial zoned area in the towns of Lancaster, Leominster, and Lunenburg; provided further, that not more than \$900,000 shall be expended to repair and extend an existing sewer main at the 9/90 site, so-called, in the town of Framingham; and provided, further, that prior to the release of any funds from this item for said sewer main, said towns shall provide a 100 per cent match from other sources for said purpose \$5,375,000

Chap. 289

7004-5995	For the recapitalization of the Massachusetts Housing Partnership Fund	\$500,000
7004-6996	For the recapitalization of the Massachusetts Community Development Finance Corporation	\$1,000,000
7004-7997	For state financial assistance for regional community and economic development projects; provided, that \$1,000,000 shall be expended for the Millis memorial school conversion project, so-called; provided further, that \$2,250,000 shall be provided to the town of Amherst for the Amherst community center project; provided further, that \$2,000,000 shall be expended for the Academy of Music, so-called; provided further, that \$2,000,000 shall be expended for the study, design and the renovation and expansion of the Greenleaf community center in the city of Springfield; provided further, that the director of the department of housing and community development shall contract for an amount not to exceed \$30,000 with a community development corporation in the Canton area for a study of the economic development and revitalization of the Cantor Center business district; provided further, that \$3,000,000 of the amount appropriated herein shall be expended for a grant to the Fitchburg Redevelopment Authority for said Authority's plan for the development of an urban technology mall at the North Street Corridor in the city of Fitchburg; provided further, that \$200,000 shall be expended for the Methuen community center project, so-called; provided further, that \$1,200,000 shall be expended for the conversion of a municipal facility in the town of Swampscott; provided further, that \$1,050,000 shall be expended for the completion of the wood technology center at Mount Wachusett Community College; provided further, that of said \$1,050,000, not less than \$150,000 shall be expended for a demonstration project of the merits of biomass heating systems at the proposed Warwick elementary school in the town of Warwick; provided further, that \$1,850,000 shall be expended for the school pier and adjacent building at the Massachusetts Maritime Academy, including \$450,000 which shall be expended to meet unfunded federal and international mandates on the Standards for Training, Certification, and Watchkeeping (STCW); provided further, that \$600,000	

shall be allocated to the city of Leominster for the costs associated with the development of a certain industrial park in said city; provided further, that \$3,000,000 shall be transferred to the University of Massachusetts to fund the one-time start-up costs associated with the alliance of the Center for Marine Science and Technology at the University of Massachusetts at Dartmouth and the Science, Education, and Economic Development Center at the New Bedford Aquarium Site or an appropriate site within the city of New Bedford including, but not limited to costs of office space and laboratories; provided, however, that said \$3,000,000 shall not be transferred or expended until said university submits a spending plan for such funds to the house and senate committees on ways and means; provided further, that \$600,000 shall be expended for improvements to fresh water pumping systems in the towns of Holbrook and Randolph; provided further, that \$250,000 shall be expended for the development of a re-use plan for the New England Log Home site in the town of Great Barrington; provided further, that \$200,000 shall be expended for the mitigation of pollution on the Aztec Industry site, so-called, in the town of North Brookfield; provided further, that \$56,000 shall be expended for a study of the economic rehabilitation of the four corners neighborhood, so-called, in the city of Boston; provided further, that said study shall be submitted to the house and senate committees on ways and means not later than February 3, 1999; provided further, that not less than \$75,000 shall be expended for the outstanding balance owed on the cost of the Mendon water line; \$19,361,000

7004-8977 For the renovation, remodeling, reconstruction, redevelopment, hazardous material abatement, including asbestos and lead paint, and for compliance with state codes and laws; provided, however, that the amount made available herein shall fund projects undertaken for the purpose of compliance with state codes and laws or for other purposes related to the health and safety of residents; provided, further, that said department may enter into a contract or contracts with housing authorities for projects undertaken pursuant to section 25 and clause (j) of section 26 of chapter 121B of the General Laws; provided, further, that

not more than \$5,000,000 shall be made available to the Boston Housing Authority for critical repairs to the Gallivan boulevard housing project development; provided, further, that not less than \$300,000 be expended for capital improvements in various housing developments operated by the Lynn Housing Authority; and provided, further, that not more than \$2,378,000 shall be expended for roof repairs, plumbing and sewer trap repairs, lead paint abatement, bathroom and kitchen renovations, and other renovations by the Northampton Housing Authority for the Hampshire Heights housing project; and provided, further that not more than \$175,000 shall be made available to the Reading Housing Authority for the replacement of windows at the 667-C development, so-called, located in the town of Reading; provided, further, that not less than \$100,000 shall be expended on a sprinkler system in the Tower Hill Senior Housing building in Burlington; and provided, further, that not more than \$180,000 shall be made available to the Brockton Housing Authority for the installation of an emergency generator at the Crosby Gardens Elderly Housing Project Development \$8,133,000

Department of Education

7052-8998 For grants and reimbursements to cities, towns, regional school districts and counties to mitigate health code violations caused by the presence of asbestos in school buildings; provided, that the rate of reimbursement made under the provisions of this item to such cities, towns, regional school districts and counties for such asbestos mitigation projects shall be the same as the rate of reimbursement currently provided to such entities under the school building assistance program authorized by chapter 645 of the acts of 1948; provided further, that no funds shall be expended from this item for a school which has not been closed as a result of health code violations resulting from the presence of asbestos; provided further, that the department of public health must certify that a community seeking reimbursement from this item closed a school as a result of health code violations resulting from the presence of asbestos; provided further, that, subject to the reimbursement provisions of this item, an amount not

	to exceed \$500,000 shall be provided to the city of Revere; and provided further, that, subject to the reimbursement provisions of this item, an amount not to exceed \$300,000 shall be provided to the town of Marblehead	\$2,000,000
7061-7997	For the second year costs associated with the implementation and development of the information management and computer tracking system, so-called	\$6,500,000
7061-8998	For the Massachusetts community network, so-called; provided, that the department of education shall collaborate with the information technology division to establish and operate said network; provided further, that the department of education shall disseminate information to all school districts relative to the federally funded universal service fund, so-called; provided further, that not less than \$2,000,000 shall be expended for the establishment of an on-line database of curriculum resources to be coordinated jointly by said department, WGBH television, the Massachusetts Corporation for Educational Telecommunications and the University of Massachusetts; and provided further, that said department shall file a spending plan detailing the number of schools and municipalities connected to the Internet with the amounts appropriated herein with the joint committee on education and the house and senate committees on ways and means by April 1, 1999 . . .	\$10,000,000

Board of Higher Education.

7066-0115	For the purpose of implementing section 15E of chapter 15A of the General Laws to encourage private fundraising by the commonwealth's public institutions of higher education; provided, that funds shall be disbursed on a quarterly basis in proportion to the amount of funds raised by each institution; and provided further, that the board of higher education shall implement such program in a manner which ensures that each institution shall have an equal opportunity to secure matching funds from this item	\$11,000,000
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Salem State College.

7114-8998	For the purchase of equipment for the aquaculture center at Salem State College	\$590,000
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University of Massachusetts at Dartmouth.

7310-8998 For the development of the advanced technology center at the University of Massachusetts at Dartmouth in Fall River . . . \$12,000,000

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Office of the Secretary.

8000-1981 For the purchase of equipment and capital renovations for public safety agencies; provided, however, that not more than \$130,000 shall be expended for firearm simulators for the criminal justice training council; provided further, that not more than \$90,000 shall be expended for laboratory improvements and equipment for the office of the chief medical examiner; and provided, further, that not more than \$50,000 shall be expended for equipment for the emergency operations center of the military division \$270,000

Department of State Police.

8100-0016 For the establishment and population of the CODIS database, so-called, to catalog DNA samples in compliance with chapter 22E of the General Laws; provided, that no funds shall be expended from this item until a court-ordered injunction prohibiting the collection and coding of DNA samples is dissolved and the secretary of public safety provides documentation of such dissolution to the secretary of administration and finance and to the senate and house committees on ways and means \$1,773,923

8100-1981 For the acquisition of three light twin helicopters for the state police air wing \$8,400,000

8100-1982 For the purchase of equipment for the state police crime laboratory including, but not limited to, forensic DNA testing equipment, reagent kits and supplies, a scanning electron microscope, a UV spectrophotometer, polarizing comparison microscopes, upgrades and replacements to the crimcon fingerprint imaging systems, so-called, and computer polygraph equipment \$1,153,125

Military Division.

8700-7997 For improvements to the Newburyport Armory \$600,000

Department of Correction.

8900-1981 For emergency capital repairs to the various facilities of the

department of corrections, including, but not limited to, roof repair or replacement, repair or upgrading of fire alarm systems, boiler systems, fencing, generators and water supply systems; provided, however, that not more than \$100,000 be expended to repair or replace the windows in the cafeteria at the women's unit at MCI Framingham, so-called; provided, further, that priority be given to those projects deemed emergency in nature and the most cost effective to effectuate by the commissioner of said department; provided, further, that any new capacity in operating funds previously budgeted for capital purposes continue to be used for capital improvements; and provided further that not more than \$850,000 shall be expended for the study, preparation of plans for the demolition, and the demolition of certain buildings owned by said department on Commonwealth avenue in the town of Concord known as White Row and on Elm Place in said town known as Green Row; provided, further, that in request for proposals for said demolition, said department shall require contractors to estimate the value of salvageable materials in said buildings; and provided, further, that said amount appropriated herein for demolition shall be net of any revenue generated from salvage \$950,000

8900-1982 For facility repairs, leased modular units and infrastructure improvements to expand detoxification unit capacity for females with acute substance abuse treatment needs held on bail awaiting trial at MCI Framingham or another location selected by the department \$5,000,000

LEGISLATURE.

House of Representatives.

9634-2010 For expenses related to the upgrade or replacement of the house information technology systems, including maintenance of data and telecommunication equipment \$3,350,000

SECTION 2A.

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Office of the Secretary.

4000-7997 For a program of loan guarantees or interest subsidies to assist homeowners with blindness or severe physical disabilities in making modifications to their primary residence for the

purpose of improved accessibility or to allow such homeowners to live independently in the community; provided, that the secretary of health and human services may contract with third parties including, but not limited to, the Massachusetts housing finance agency or commonwealth-based financial institutions, to manage such program; provided further, that said secretary and such third parties shall take all steps necessary to minimize such program's administrative costs; provided further, that such loan guarantees shall be available on the basis of a sliding scale that relates a homeowner's income and assets to the cost of home modifications; provided further, that interest subsidies shall be means-tested and may be for zero interest loans pursuant to income standards developed by said secretary; provided further, that the repayment of any such loans may be delayed until the sale of the principle residence by any such homeowner; provided further, that persons residing in any development covered by section four of chapter 151B of the General Laws shall not be eligible for said program unless the owner can show that the modification is an undue financial burden; provided further, that said secretary shall consult with the Massachusetts commission for the blind and the Massachusetts rehabilitation commission in developing rules, regulations and guidelines for such program; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to services; provided further, that nothing stated herein shall be construed as giving rise to enforceable legal rights or enforceable entitlement to any services; and provided further, that said secretary shall submit quarterly reports to the house and senate committees on ways and means detailing the status of the program herein established \$10,000,000

SECTION 3. To meet the expenditures necessary to carry out the provisions of section 2A, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth, in an amount specified by the governor from time to time, not exceeding in the aggregate, the sum of \$10,000,000. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Home Modifications for the Disabled Loan, Act of 1998, and shall be issued for such maximum terms of years, not exceeding 20 years, as the governor may recommend to the general court pursuant to section 3 of Article LXII of the

Amendments to the Constitution of the commonwealth; provided, however, that all such bonds shall be payable not later than June 30, 2019. Bonds and interest thereon issued under the authority of this section, notwithstanding any other provision of this act, shall be general obligations of the commonwealth.

SECTION 4. The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purposes of meeting payments authorized by section 2A and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such times and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June 30, 2004. Notes and interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth.

SECTION 5. Section 2 of chapter 339 of the acts of 1992 is hereby amended by striking out subsection (g) and inserting in place thereof the following subsection:-

(g) The corporation may receive a one-time payment from the commonwealth in an amount not to exceed \$2,050,000 for the rehabilitation and preservation of the USS Salem berthed in Fore River. Said one-time payment shall represent the commonwealth's full obligation for said rehabilitation and preservation.

SECTION 6. Item 1100-9520 of section 2K of chapter 273 of the acts of 1994 is hereby amended by striking out the words "an off-street parking facility in the town of Stoneham" and inserting in place thereof the words:- off street parking and related enhancements to promote commercial activity in Stoneham center.

SECTION 7. Item 6033-9617 of section 2A of chapter 205 of the acts of 1996 is hereby amended by inserting after the words "Stony Hill road in the town of Wilbraham," the following words:- ; provided further, that \$100,000 shall be expended for a pedestrian traffic control signal to be installed on East Main Street, State Highway route 131, opposite the entrance of the center of hope sheltered workshop, so-called, in the town of Southbridge; and provided further, that not more than \$100,000 shall be expended for a full traffic signal to be installed at the intersection of Wood street and state highway route 28 in the town of Middleboro.

SECTION 8. Item 6033-9799 of section 2A of chapter 11 of the acts of 1997 is hereby amended by striking out the words "provided further, that \$1,200,000 shall be expended for the repair and renovation of the Massachusetts state building, so-called, at the eastern states exposition in the town of West Springfield",- and by striking out the figure "13,200,000" and inserting in place thereof the following figure:- 12,000,000.

SECTION 9. Section 2C of said chapter 11 is hereby amended by striking out item 8100-9761.

SECTION 10. Subsection (b) of section 80 of said chapter 11 is hereby amended by

striking out the words "shall be issued for not more than ten years" and inserting in place thereof the following words:- shall be issued for not more than 30 years.

SECTION 11. Notwithstanding the provisions of any general or special law to the contrary, the executive office of transportation and construction shall expend the funding authorized by item 6005-9575 of section 2H of chapter 273 of the acts of 1994 for removal of hazardous waste from the site of the East First street power station and complex in the South Boston section of the city of Boston.

SECTION 12. Notwithstanding the provisions of item 1790-1982 of section 2A or any other general or special law to the contrary, the executive office of administration and finance is hereby directed to correct date-handling logic problems and the year 2000 problem, so-called, in the commonwealth's computing systems in accordance with the provisions of this section.

Each public entity in the commonwealth shall ensure that its information technology systems are year 2000 compliant. The chief information officer, designated in section 4A of chapter 7 of the General Laws, is hereby authorized to coordinate and oversee the year 2000 compliance efforts of the executive departments. All executive departments shall cooperate to the fullest extent with said chief information officer and shall provide him, or his designees, with such information and reports as he may require. Said chief information officer is hereby further authorized to review technical budgets for the year 2000 compliance and remediation efforts of executive departments, regardless of whether such efforts are funded with capital, operating, federal or trust funds. Said chief information officer is hereby also authorized to establish such year 2000 compliance and validation standards as he deems appropriate.

The information technology division of the executive office of administration and finance shall report quarterly to the house and senate committees on science and technology and to the house and senate committees on ways and means on the progress being made to address the year 2000 problem and the degree to which funds expended pursuant to said item 1790-1982 are appropriate and not duplicative of expenditures made with funds from other sources.

SECTION 13. The department of environmental protection, in consultation with the executive office of administration and finance, the Water Pollution Abatement Trust, and the department of housing and community development, is hereby directed to conduct a study of potential financial assistance programs, including but not limited to a Title V betterment program, relating to the costs of bringing sewage disposal systems serving manufactured housing communities into compliance with 310 CMR 15.00. Said report shall be submitted to the house and senate committees on ways and means not later than October 31, 1998.

SECTION 14. There is hereby established on the books of the commonwealth a Cape Cod Land and Aquifer Protection Fund to be administered by the secretary of environmental affairs for the purpose of providing matching grants to municipalities in Barnstable county that acquire land for open space and aquifer protection. Said fund shall be established as an expendable trust and not subject to appropriation. Any acquisition for which a munici-

pality seeks grants from said fund shall meet eligibility criteria established by said secretary. Said secretary shall disburse from said fund 50 per cent of the cost of any such acquisition upon a demonstration that the municipality has actually made said purchase or can demonstrate the financial ability to make said purchase.

Said eligibility criteria shall include, but not be limited to, the requirement that any such acquisition shall confer a significant environmental benefit, shall be retained in natural, scenic or open condition, and shall be bound by a permanent deed restriction, that runs with the land, which limits the use of the interest to the purpose for which it was acquired. Said eligibility criteria shall limit matching grants from said fund to only those properties approved for acquisition by a municipality after September 1, 1998. Matching grants shall only be permitted for acquisitions consisting of interests in real property consisting of the following (a) land to protect existing and future well fields, aquifers and recharge areas; (b) agricultural lands; (c) forest land; (d) fresh and salt water marshes and other wetlands; (e) ocean and pond frontage, beaches, dunes and other coastal lands; (f) land to protect scenic vistas; or (g) land for natural or wildlife preserve.

The comptroller is hereby authorized and directed to transfer from the General Fund to the Cape Cod Land and Aquifer Protection Fund established by this section the amount of \$15,000,000 not later than June 30, 1998. Said amount shall be available for disbursement until June 30, 2002.

SECTION 15. Notwithstanding the provisions of any general or special law to the contrary, the partial balances of unexpended bond authorizations, listed herein, shall cease to be available for expenditure as of the effective date of this act: 2120-8950, 2120-9955, 2120-9956, 2121-8887, 2122-8887.

SECTION 16. The adjutant general is hereby directed that the records of the military forces of the commonwealth be maintained within the city of Boston.

SECTION 17. The division of capital planning and operations is hereby authorized and directed to study the cost effectiveness of the administrative office of the trial court entering into competitively selected contracts for the property management of all court facilities, including but not limited to, substantially renovated or newly constructed trial court facilities. Said study shall compare the current system of property management of said trial court facilities with systems of selected contracts for property management in effect for other agencies of the commonwealth as well as other systems of property management that are in effect in other states. The commissioner of said division shall file said study with the clerks of the house of representatives and senate, the house and senate committees on ways and means, and the joint committee of the judiciary by May 30, 1998.

SECTION 18. The secretary of administration and finance shall file a report no later than March 1, 1999 with the house and senate committees on ways and means detailing those expenditures from items if appropriation in section 2A of chapter 88 of the acts of 1998 which are projected to be unexpended or unobligated by the end of the accounts payable period in fiscal year 1999 and for which said secretary recommends an extension of funding into the subsequent fiscal year. Said report shall further list all amounts expended or obliga-

ted as of said date from said items and from any child accounts, so-called, created from said items.

SECTION 19. Notwithstanding the provisions of any general or special law to the contrary, there is hereby established and set up on the books of the commonwealth the Capital Improvement and Investment Trust Fund, the sole purpose of which shall be to fund items appropriated in section 2. The comptroller shall transfer to said fund, effective June 30, 1998, \$272,441,593 from the General Fund and \$106,854,600 from the Highway Fund. Said fund shall be established as a separate expendable trust, subject to the control of the secretary of administration and finance, who shall serve as the trustee of said fund. Said fund shall expire on June 30, 2000.

SECTION 20. Notwithstanding the provisions of any general or special law to the contrary, the metropolitan district commission shall study options to repair and modernize the Veterans memorial rink in the town of Arlington for the purpose of transferring ownership and maintenance responsibilities of said rink to said town of Arlington. Such study shall ensure that the seniority rights and other benefits of employees currently employed at said rink are not impaired as a result of such transfer of ownership and maintenance responsibilities; provided, that such study shall assume that all employees currently employed at said rink shall retain their current positions at not less than such employees current benefit levels. Such study shall also examine options and needs to repair and modernize other rinks owned by said commission which are under long-term lease to municipalities and the possibilities to transfer ownership and maintenance responsibilities of such rinks to such municipalities. The results of such study shall be filed with the house and senate committees on ways and means not later than September 30, 1998.

SECTION 21. The department of environmental protection shall establish a panel of experts in the field of hydrology and water supply protection to perform an independent study of issues relating to the siting of a sanitary landfill in the town of Douglas upon land identified in a site assignment issued by said town's board of health to Douglas Environmental Associates, Inc. on or about April 1, 1987, and further described in more detail in a document attached to said site assignment and entitled "Description of Land Subject to Site Assignment Pursuant to G.L. c. 111, Section 150A". Such panel's study shall include, but not be limited to, the following issues: (a) the existence of faults and fractures in the bedrock underlying the proposed site for such landfill; (b) the extent to which such faults and fractures have been adequately identified and mapped; (c) the extent to which contaminants released from such landfill may reach groundwater wells serving public and private water supplies; (d) the extent to which the proposed plans for containing, monitoring and remediating such releases are adequate to ensure that there is no significant risk to public and private water supplies; and (e) the extent to which such proposed landfill poses a threat to the public health, safety, and the environment. Said department shall select the members of such panel, which shall consist of not less than three individuals with suitable background, training and expertise. Such panel shall prepare a written report of its findings and submit such report to said department and the legislature's joint committee on natural resources and

agriculture not later than September 30, 1998; provided, however, that said department shall not issue a permit to construct or operate a landfill on the site described herein until said department has received and reviewed such report and accepted comments from interested persons on the contents of such study.

SECTION 22. Notwithstanding the provisions of any general or special law to the contrary, the department of education, in consultation with the department of public health, shall conduct a study to determine the number of schools which require funding for the abatement of asbestos. Said study shall delineate the name of the school, the school district in which such school is located, the estimated cost of the abatement project, and the estimated time to complete such abatement project. Said study shall be filed with the joint committee on education, arts and humanities, and the house and senate committees on ways and means not later than December 31, 1998.

SECTION 23. It is hereby found that the Massachusetts government land bank, established pursuant to chapter 212 of the acts of 1975, and the Massachusetts Industrial Finance Agency, established pursuant to sections 29 to 38C, inclusive, of chapter 23A of the General Laws, have within their respective enabling statutes a shared legislative mission generally to stimulate economic development and industrial growth, increase employment, build communities, promote prosperity and general welfare, and eradicate blight across the commonwealth;

It is hereby further found that it is an important function of government, and specifically Massachusetts government land bank and the Massachusetts Industrial Finance Agency, to work toward the successful attainment of said mission.

It is hereby further found that the strengthening of the commonwealth's economy, the conservation of resources the increase of opportunities for gainful employment and the improvement of inadequate and substandard conditions all require that the commonwealth's existing commercial centers be revitalized, and that the availability of public financial assistance, such as is available through the Massachusetts Industrial Finance Agency, is a critical inducement to the revitalization of such deteriorated centers through development projects to create living and working opportunities in such centers as well as to the retention, expansion and location of industrial and commercial enterprises throughout the commonwealth.

It is hereby further found that there exists within the commonwealth underutilized property owned by the commonwealth or the federal government which property is surplus to current and projected governmental needs; there also exists decadent, substandard or blighted open areas in the commonwealth; and there also exists certain public needs including the encouragement of manufacturing, industrial, commercial and economic enterprises and that the development of these properties and the satisfaction of these needs will contribute to the provision of gainful employment and the potential for increased revenue and a more stable economy for the commonwealth and municipalities;

It is hereby further found that since December 1995, the Massachusetts government land bank and the Massachusetts Industrial Finance Agency have been successfully operating as an affiliation doing business as Massachusetts Development Finance Agency.

It is hereby further found that all of the conditions set forth in detail in section 29 of chapter 23A of the General Laws which necessitated the creation of the Massachusetts Industrial Finance Agency and the conditions set forth in detail in section 1 of chapter 212 of the acts of 1975 which necessitated the creation of the Massachusetts government land bank, still obtain and there is need to meet such conditions more efficiently at this time.

It is, therefore, in the best public interest of the commonwealth to promote the prosperity and general welfare of all citizens by stimulating industrial growth and expansion through the retention of existing industries, the attraction of new industries and the promotion of sound economic growth policies through a formal merging of the Massachusetts government land bank and the Massachusetts Industrial Finance Agency.

The advantages to the general public of such merger would include greater efficiencies and savings by focusing the commonwealth's resources toward the common goals of stimulating economic development and industrial growth, increasing employment, promoting prosperity and general welfare, and eradicating blight throughout the commonwealth.

Furthermore, the intent of this act is create the Massachusetts Development Finance Agency as an agency having all of the powers which were vested in the Massachusetts Industrial Finance Agency or the Massachusetts government land bank.

It is therefore expressly declared that the provisions of this act establishing the Massachusetts Development Finance Agency constitutes a merger in the public interest and serves a necessary and valid public purpose for which public money may be expended or invested.

SECTION 24. The General Laws are hereby amended by inserting after chapter 23F the following chapter:-

CHAPTER 23G.

THE MASSACHUSETTS DEVELOPMENT FINANCE AGENCY.

Section 1. As used in this chapter, the following words shall have the following meanings, unless the context clearly requires otherwise:

"Agency", the Massachusetts Development Finance Agency established pursuant to section 2.

"Authority", an industrial development financing board.

"Construction", means and includes both construction and acquisition and the term "to contract" means and includes both to construct and acquire.

"Board", the board of directors of the Massachusetts Development Finance Agency.

"Bonds", when used in reference to the Agency, any bonds, notes, debentures, interim certificates, or other financial undertakings for the purpose of raising capital, including, but not limited to, lines of credit, forward purchase agreements, investment agreements and other banking or financial arrangements, issued by or entered into by the Agency pursuant to section 8. "Bonds", when used in reference to a public body, any bonds, notes or other evidences of indebtedness issued by such public body pursuant to any provision of general or special law heretofore or hereafter enacted authorizing the public body to incur debt.

"Cost of the project" and "Costs", the cost of construction, the cost of acquisition of all lands, structures, rights of way, franchises, easements and other property rights and interests and related riparian or water rights, the cost of demolishing, removing or relocating any buildings, structures or utilities on any lands to which such buildings, structures or utilities may be moved or relocated, the cost of all labor, materials, machinery and equipment, financing charges, interest on all bonds prior to and during the carrying out of a project and for a period not exceeding one year after completion thereof, the cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, other expenses necessary or incidental to determining the feasibility or practicability of projects, administrative expenses, reimbursement to the municipality of advances to the authority under section 19, and for planning costs and other preliminary expenses made for the benefit of but prior to the formation of the authority, and such other expenses as may be necessary or incidental to the projects, the financing thereof, placing of the same in operation and the issuance of bonds under this chapter, including but not limited to the establishment and funding of reserves to secure such bonds.

"Current expenses", the amount of reasonable and necessary current expenses in connection with any project as the same may be more fully defined in the trust agreement relating to a project, and shall in any event include the fees and expenses of the trustee under the trust agreement securing bonds issued to finance such project.

"Economic development project", a project providing public benefits through the establishment, expansion, securing, financing or operating of an industrial, recreational, research and development, commercial or service enterprise or facility, or any parts or combinations thereof, located within or partially within the commonwealth and including, but not limited to, all facilities necessary or desirable in connection therewith or incidental thereto, including provision for working capital.

"Federal Agency", the United States of America, the President of the United States of America, and any department of or corporation, Agency or instrumentality heretofore or hereafter created, designated or established by the United States of America.

"Financing document", an instrument entered into by the Agency with one or more other persons pertaining to the issue or securing of bonds or the application to the purposes of the Agency of proceeds of bonds or other funds of the Agency. A financing document may include, but need not be limited to, a lease, installment sale agreement, conditional sale agreement, mortgage, loan agreement, trust agreement, security agreement, letter of credit, reimbursement agreement, or currency or interest rate swap agreement. A financing document may also be an agreement between the Agency and a lending institution which has agreed to make a loan to a user to finance a project.

"Governing body", in a city having a Plan D or Plan E charter the city manager and the city council and in any other city the mayor and city council, and in towns the board of selectmen.

"Improvement", includes reconstruction, remodeling, rehabilitation, extension, enlargement and "to improve" includes to reconstruct, to remodel, to rehabilitate, to extend, to enlarge and to improve.

"Industrial development facilities" or "facilities", facilities used in connection with any industrial, or research and development enterprise or any part thereof, located within or partially within the municipality creating an authority, including any or all buildings, docks, wharves, ships, improvements, additions, extensions, replacements, appurtenances, land, rights in land, riparian rights, water rights, franchises, machinery, equipment, furnishings, landscaping, utilities, approaches, roadways, energy conservation facilities, facilities designed to reduce consumption of petroleum products and other facilities necessary or desirable in connection therewith or incidental thereto, such as, but not limited to, office, warehouse, terminal, transportation and back-up power generating facilities, which facilities need not merely be in connection with or incidental to other facilities if the operation of such facilities themselves is an industrial enterprise.

"Industrial enterprise", an enterprise engaged in applying skill and labor to the giving of new shapes, new qualities or new combinations to matter as material products or to the assembly, processing, preservation, storage, handling or transportation of manufactured or natural products, or to stationary facilities and equipment necessary or useful in connection with railroad operations, including railroad rights of way and all associated tracks and facilities or to the making of works of art by self-employed artists or to the construction, renovation and equipment of a medical diagnostic imaging facility which has been granted a certificate of need in accordance with the provisions of section 25C of chapter 111 or to the construction and renovation of a nursing or convalescent home licensed under the provisions of section 71 of said chapter 111, including renovations for energy conservation purposes or to the operating of a continuing care facility. Industrial enterprise shall also include the operation of a day care center or a school age child care program, as those terms are defined in section 9 of chapter 28A. Industrial enterprise shall also include an enterprise primarily or incidentally engaged in cogeneration by means of cogeneration facilities or in production of electric energy by means of small power production facilities. In any city or in a town subject to the provisions of clause (k) of subsection (2) of section 12 of chapter 40D, industrial enterprise shall also include commercial enterprise, which shall mean the conduct of a trade or business. Facilities for the use of governmental and nonprofit entities shall be considered facilities to be used in a commercial enterprise, and bonds may be issued under this chapter to finance costs of such facilities, including such costs paid prior to the authorization of such bonds as the board of directors of the Massachusetts Development Finance Agency, referred to in this chapter as the board, shall approve in connection with the provision of such facilities; and for this purpose the term commercial enterprise shall be read to include the operation of such facilities, but the requirements of clause (e) of subsection (2) of said section 12 of said chapter 40A shall not apply if the board determines that the issuance of the bonds will result in a public benefit; provided, however, that the words "industrial enterprise" shall also include an institution. For the purposes of this chapter and of said chapter 40D, as applied to the Agency, an institution shall not be deemed to constitute a commercial enterprise. The board shall not be required with respect to an institution to make the findings set forth in clauses (e) and (k) of said subsection (2) of said section 12 of

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said chapter 40D if the board finds that the issuance of the bonds will result in a public benefit.

"Development Finance Insurance Fund", the fund established pursuant to section 4.

"Institution", a nonprofit corporation organized to operate a facility or facilities that provide cultural or educational services, but not including (i) a nonprofit hospital within the commonwealth licensed by the department of public health, (ii) a nonprofit health maintenance organization within the commonwealth licensed by the commissioner of insurance, and (iii) a nonprofit nursing home within the commonwealth licensed by the department of public health; provided, however, that any such hospital, health maintenance organization, or nursing home shall be considered to be an institution for the purposes of financing any project approved by the board on or before September 1, 1989; provided, further, that any such hospital, health maintenance organization, or nursing home shall be considered to be an institution for the subsequent refinancing or refunding of any project approved by the board on or before September 1, 1989; and provided, further, that nothing in this definition shall be construed to limit the power or authority of the Agency to provide financing to any person which is otherwise authorized by this chapter or any other provision of law.

"Lending Institution", any bank or trust company; Federal National Mortgage Association; approved mortgage banker; savings bank; credit union; national banking association; insurance company; financial institution or governmental Agency approved by the Agency to participate in the financing of a project.

"Loan", shall include, but not be limited to, industrial mortgage loans, and may include bonds issued under the provisions of section 8 and under chapter 40D.

"Massachusetts Export Finance Fund", the fund established by section 6.

"Massachusetts export finance program" or "export finance program", the program established by section 7.

"Municipality", a city or town or, where the context requires, two or more cities or towns joining together to form an authority to carry out industrial development.

"Person", any natural or corporate person, including bodies politic and corporate, public departments, offices, agencies, authorities and political subdivisions of the commonwealth, corporations, trusts, societies, associations, and partnerships and subordinate instrumentalities of any one or more political subdivisions of the commonwealth.

"Pollution control facilities", facilities for the prevention, avoidance, reduction, control, abatement, elimination or monitoring of pollution of air or of waters by any means by industrial enterprises, public utilities or others, including, but not limited to, any air pollution control facility, noise abatement facility, water management facility, thermal pollution control facility, waste water collection system, waste water treatment works, sewage treatment works, sewage treatment system or site, and including any or all property, rights, franchises and facilities necessary or desirable in connection therewith or incidental thereto.

"Primary employment", work which pays at least one and one-half times the mini-

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mun wage, as defined in chapter 151 or as established by federal law, whichever is higher, offers adequate fringe benefits including health insurance, and is not seasonal or part-time.

"Project", shall have the meaning set forth in section 1 of chapter 40D and, when used in reference to a financing pursuant to subsection (b) of section 8 of this chapter, shall also include any economic development project, and, when used in reference to a financing pursuant to subsection (c) of said section 8, shall also include any activity for which a public body is authorized to expend funds and shall also include the issuance of tax- exempt debt instruments for working capital and fuel, supplies, or other items, the cost of which are customarily deemed to result in a current operating charge, for any hospital, health maintenance organization, and nursing home which is considered to be an institution according to the definition of "institution" and for any nursing home for which the Agency is otherwise authorized by law to provide financing.

"Public body", the commonwealth, and any body politic and corporate of the commonwealth, including any political subdivision or instrumentality thereof, which is empowered to issue bonds secured by a pledge of revenues or other special funds or assets, including any municipality or district for which the issuance of debt is governed or limited by the provisions of chapter 44.

"Revenues", any receipts, fees, rentals or other payments or income received or to be received on account of obligations to the Agency under a financing document, including, without limitation, income on account of the leasing, mortgaging, sale or other disposition of a project or proceeds of a loan made by the Agency in connection with any project, and also including amounts in reserves or held in other funds or accounts established in connection with the issuance of bonds and the proceeds of any investments thereof, proceeds of foreclosure and any other fees, charges or other income received or receivable by the Agency other than the industrial mortgage established pursuant to section 4 with respect to a project or the financing thereof. insurance fund

"Solid waste disposal facilities", facilities for the disposal of refuse, garbage and waste or any of the foregoing, by incineration or other means, including any or all property, rights, franchises and facilities necessary or desirable in connection therewith or incidental thereto. Solid waste disposal facilities may include facilities for the manufacture of electricity or steam primarily from solid waste and facilities for the manufacture of electricity from steam produced primarily from solid waste, in either case with pipes, wires, boilers, generators and other equipment incidental thereto. For the purpose of this clause the word "primarily" shall be deemed to mean not less than 90 per cent net thermal units in normal operation. Solid waste disposal facilities may also include additions and modifications to boiler facilities in existence on January 1, 1978, owned or operated by a public utility, which additions or modifications are necessary or desirable to permit any such boiler facility to burn solid waste or a mix of solid waste and other fuel.

"Sponsor", any person endeavoring to secure the assistance of the Agency or of a local authority in financing a project.

"Trust agreement", an agreement or indenture securing one or more series of bonds

of an authority and complying with the provisions hereof.

"User", one or more persons, other than a public body, a municipality, a public district or a lending institution, acting as lessee, purchaser, mortgagor or borrower who has obtained or is seeking to obtain financing for a project, either from the Agency or from a lending institution which has obtained or is seeking to obtain funds from the Agency to finance a project and may include a party who transfers the right of use and occupancy to another party by lease, sublease or otherwise.

Section 2. (a) There is hereby created a body politic and corporate to be known as the Massachusetts Development Finance Agency. The Agency is hereby constituted a public instrumentality and the exercise by the Agency of the powers conferred by this chapter shall be deemed to be the performance of an essential governmental function.

The Agency is hereby placed in the executive office of administration and finance but shall not be subject to the supervision or control of said office or of any board, bureau, department or other agency of the commonwealth except as specifically provided in this chapter.

(b) The Agency shall be governed and its corporate powers exercised by a board of directors consisting of the secretary of administration and finance and the director of economic development, or their respective designees, and nine members to be appointed by the governor, one of whom shall be experienced in real estate development, one of whom shall be experienced in commercial or industrial credit, one of whom shall be experienced in mortgage lending, one of whom shall be experienced in banking or investment banking, one of whom shall be experienced in business management, one of whom shall be experienced in real estate law, one of whom shall be experienced in planning and the redevelopment of environmentally contaminated lands, one of whom shall be experienced in employment creation and one of whom shall be a representative of organized labor. Each member appointed by the governor shall serve for a term of three years; provided, however, that of the initial appointed members, four shall serve a term of two years and five for three years. Any person appointed to fill a vacancy in the office of a member of the board shall be appointed in a like manner and shall serve for only the unexpired term of such member. Any member shall be eligible for reappointment. Any member may be removed from his appointment by the governor for cause. The governor shall from time to time designate a member or members of the board as its chairperson or co-chairperson as applicable.

(c) Six of the directors shall constitute a quorum and the affirmative vote of a majority of directors present at a duly called meeting where a quorum is present shall be necessary for any action to be taken by the board. Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if all of the directors consent in writing to such action and such written consents are filed with the records of the minutes of the meetings of the board. Such consents shall be treated for all purposes as a vote at a meeting.

The members of the board shall serve without compensation, but each member shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties.

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(d) The provisions of chapter 268A shall apply to all ex-officio directors or their designees and employees of the Agency. The provisions of chapter 268A shall apply to all other directors of the Agency, except that the Agency may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with any person in which any director of the Agency is in any way interested or involved; provided, however, that such interest or involvement is disclosed in advance to the members of the board and recorded in the minutes of the board; and provided further, that no director having such an interest or involvement may participate in any decision of the board relating to such person. Employment by the commonwealth or service in any Agency thereof shall not be deemed to be such an interest or involvement.

(e) The executive director of the Agency shall be appointed and his salary established by the board. The executive director shall be the chief executive, administrative and operational officer of the Agency and shall direct and supervise administrative affairs and the general management of the corporation. The executive director may, subject to the general supervision of the board, employ other employees, consultants, agents, including legal counsel, and advisors, and shall attend meetings of the board.

(f) Neither the Agency nor any of its officers, agents, employees, consultants or advisors shall be subject to the provisions of sections 9A, 45, 46 and 52 of chapter 30, or to chapter 31, or to chapter 200 of the acts of 1976.

(g) The board annually may elect one of its members as vice-chairperson, shall elect a secretary and a treasurer, and may elect or appoint other officers as it may deem necessary, none of whom, other than the vice-chairperson, are required to be members of the board. The secretary shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers filed by the board and of its minute book and seal. The secretary shall cause copies to be made of all minutes and other records and documents of the Agency and shall certify that such copies are true copies, and all persons dealing with the Agency may rely upon such certification. The treasurer shall be the chief financial and accounting officer of the Agency and shall be in charge of its funds, books of account and accounting records.

(h) All officers and employees of the Agency having access to its cash or negotiable securities shall give bond to the Agency at its expense in such amounts and with such surety as the board may prescribe. The persons required to give bond may be included in one or more blanket or scheduled bonds.

(i) Board members and officers who are not compensated employees of the Agency shall not be liable to the commonwealth, to the Agency or to any other person as a result of their activities, whether ministerial or discretionary, as such board members or officers except for willful dishonesty or intentional violations of law. Neither members of the Agency nor any person executing bonds or policies of insurance shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof. The board of directors may purchase liability insurance for board members, officers and employees and may indemnify said persons against claims of others.

(j) The Agency shall be the successor to the Massachusetts Industrial Finance Agency established under the provisions of chapter 23A and the government land bank established under the provisions of chapter 212 of the acts of 1975. All real estate, property rights, personal property, funds, moneys, revenues, receipts, contract rights or other intangible assets, equipment or other ownership, possessory, or security interests of any kind whatsoever, or any portion thereof held by either said Massachusetts Industrial Finance Agency and said government land bank, including, without limitation, funds previously appropriated by the commonwealth for either said Massachusetts Industrial Finance Agency shall be deemed for record notice and otherwise, as applicable, to belong to the Agency on the same basis and with the same interest as previously held by Massachusetts government land bank or the Massachusetts Industrial Finance Agency, as applicable. Any and all obligations and liabilities of said Massachusetts government land bank and said Massachusetts Industrial Finance Agency shall become obligations and liabilities of the Agency. Any resolution taken by or commitment made by either the Massachusetts government land bank or the Massachusetts Industrial Finance Agency with respect to any financing, including loans, bond issuances, guarantees and insurance and any other action made by either Massachusetts government land bank or the Massachusetts Industrial Finance Agency shall be a resolution, commitment, or action of the Agency.

(k) The Massachusetts Development Finance Agency shall continue as long as it shall have bonds or insurance or guarantee commitments outstanding and until its existence is terminated by law. Upon the termination of the existence of the Agency, all right, title and interest in and to all of its assets and all of its obligations, duties, covenants, agreements and obligations shall vest in and be possessed, performed and assumed by the commonwealth as specifically provided in sections 36 to 40, inclusive.

(l) Any documentary materials or data whatsoever made or received by any member or employee of the Agency and consisting of, or to the extent that such materials or data consist of, trade secrets or commercial or financial information regarding the operation of any business conducted by an applicant for any form of assistance which the Agency is empowered to render or regarding the competitive position of such applicant in a particular field of endeavor, shall not be deemed public records of the Agency and specifically shall not be subject to the provisions of section 10 of chapter 66. Any discussion or consideration of such trade secrets or commercial or financial information may be held by the board in executive sessions closed to the public notwithstanding the provisions of section 11A> of chapter 30A, but the purpose of any such executive session shall be set forth in the official minutes of the Agency and no business which is not directly related to such purpose shall be transacted nor shall any vote be taken during such executive session.

Section 3. (a) The Agency shall have all powers necessary or convenient to carry out and effectuate its purposes, including, without limiting the generality of the foregoing, the powers:

(1) to adopt and amend bylaws, regulations and procedures for the governance of its affairs and the conduct of its business without regard to chapter 30A;

(2) to adopt an official seal;

(3) to sue and be sued, to prosecute and defend actions relating to its properties and affairs, and to be liable in tort in the same manner as a private person; provided however, that the Agency is not authorized to become a debtor under the United States Bankruptcy Code;

(4) to appoint officers and employees and to engage consultants, agents and advisors;

(5) to enter into contracts and agreements and execute all instruments necessary or convenient thereto for accomplishing the purposes of this chapter; such contracts and agreements may include, without limiting the foregoing, construction agreements, purchase or acquisition agreements, loan or lease agreements including agreements conditioned upon the subleasing of the demised premises, partnership agreements including limited partnership agreements, joint ventures, participation agreements or loan agreements with leasing corporations or other financial institutions or intermediaries, and agreements with one or more persons for the servicing of loans made by the Agency including the receipt by such servicer of payments made by a user under a financing document. Any such payments shall constitute trust funds to be held and applied solely as provided in such agreement for the servicing of loans, shall constitute pledged funds of the Agency and shall be entitled to the same protection when received by a person for the servicing of loans, without the need for filing and recording of the servicing agreement under the provisions of chapter 106 or otherwise except in the records of the Agency, as is afforded to funds received by an issuer and pledged to a trustee under section 14 of chapter 40D.

(6) to acquire real and personal property, or any interest in real or personal property, by gift, purchase, transfer, foreclosure, lease or otherwise including rights or easements; to hold, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage any interest owned by it or under its control, custody or in its possession; to release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption in property foreclosed by it; to take assignments of leases and rentals, proceed with foreclosure actions, or take any other actions necessary or incidental to the performance of its corporate purposes;

(7) to invest any funds held in reserves or sinking funds, or in the Development Finance Insurance Fund, or any funds not required for immediate disbursement, in such investments as may be provided in any financing document relating to the use of such funds, or, if not so provided, as the board may determine;

(8) to appear in its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;

(9) to obtain insurance;

(10) to apply for and accept subventions, grants, loans, advances and contributions from any source of money, property, labor or other things of value, to be held, used and applied for its corporate purposes;

(11) to borrow money, issue bonds and apply the proceeds thereof as provided in section 8, in order to implement the purposes of this chapter and, without limiting the generality of the foregoing, to augment the means of securing financing authorized by law

for or otherwise available to public bodies and other users;

(12) to lend money to and to acquire or hold obligations issued by public bodies or other users at such prices and in such manner as the Agency shall deem advisable and sell such bonds acquired or held by it at prices without relation to cost and in such manner as the Agency shall deem advisable and to secure its own issues of bonds with such obligations held by it, all as provided in section 8;

(13) to administer federally-insured pollution control loan guaranty programs;

(14) to plan, acquire or lease on a temporary basis facilities and to provide for the construction, reconstruction, improvement, alteration or repair of any facility or part thereof;

(15) to provide and pay for such advisory services and technical assistance as may be necessary or desired to carry out the purposes of this chapter;

(16) to establish and collect such fees and charges as the Agency without appropriation shall determine to be reasonable; and to receive and apply revenues from fees and charges to the purposes of the Agency or allotment by the commonwealth or any political subdivision thereof;

(17) to make loans to any person for the acquisition, construction, alteration, or any combination thereof, or other financing of a project, including but not limited to loans to lending institutions under terms and conditions requiring the proceeds of such loans to be used by such lending institutions for the making of loans to users for qualified projects;

(18) to give assistance to local authorities, public bodies and sponsors through the providing of information, guidelines and suggested forms and procedures for implementing their financing programs;

(19) to prepare, publish and distribute, with or without charge, as the Agency may determine, such studies, reports and bulletins and other material as the Agency deems appropriate;

(20) to exercise any other powers of a corporation organized under chapter 156B; and

(21) to do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly granted in this chapter; provided, however, that nothing herein shall be construed to authorize the Agency to engage directly in the business of a manufacturing, industrial, real estate development or non-governmental service enterprise; and

(22) to issue electric rate reduction bonds, as defined in section 1H of chapter 164, for the benefit of any electric company, as defined in section 1 of said chapter 164, determined to be eligible for said bond financing by the department of telecommunications and energy pursuant to said chapter 164. Such electric rate reduction bonds shall constitute "bonds" for purposes of subsections (d) to (k), inclusive, of section 8 and of section 9.

(23) in addition to the powers specified in clause (6), take possession and manage on behalf of the commonwealth or acquire on its own behalf lands, improvements thereon, and related personal property, hereinafter called lands, or an interest therein, (1) from the United States, which lands, or interest therein, were used for Westover Air Force Base, the Chelsea Naval Hospital, or the Boston Naval Shipyard, including the South Boston Annex, the Boston Army Base and all other lands owned by the United States and used in connection

with or for purposes related to the operations of the Boston Naval Shipyard or the Boston Army Base, subject to such restrictions as may be imposed on such acquisition by the United States, and including, without limitation, any other property of the United States lying within the commonwealth and declared surplus by the United States, subject to such restrictions as may be imposed on such acquisition by the United States, hereinafter called the federal surplus lands; (2) from the commonwealth any lands which have been determined to be surplus to direct public uses by the commonwealth or by public agencies, hereinafter called state surplus lands; (3) lands declared decadent, substandard or blighted open areas by the Agency, which lands shall include, but not be limited to areas that are of such a character that they are in essence detrimental to the safety, health, morals, welfare or sound growth of the community in which they are situated because fluctuations in the real estate market, a substantial change in business and economic conditions or practices or the high-risk nature of newly emerging businesses and technologies have rendered the sale or efficient use of existing, new or renovated buildings or facilities thereon impractical without the aids provided herein, or because of an abandonment or cessation of a previous use thereon or the abandonment or cessation of work on improvements, facilities or buildings begun thereon but not feasible to complete or sell without the aids provided herein, or because of the inability of certain businesses and emerging technologies to receive private financing due to the high-risk nature of these businesses and technologies or due to changes in business and economic conditions, or because of any combination of foregoing reasons or other conditions not being remedied by the ordinary operations of private enterprise, hereinafter called blighted lands; and (4) lands declared appropriate by the Agency for the establishment, development, improvement, redevelopment, stabilization, operation or maintenance of small business incubator facilities, including, without limitation, existing small business incubator facilities, hereinafter called incubator development lands and from the United States, lands that were used for Fort Devens or a portion thereof.

(24) engage accountants, architects, attorneys, engineers, planners, real estate experts and other consultants as may be necessary in its judgment to carry out the purposes of this act and fix their compensation;

(25) take any actions necessary or convenient to the exercise of any power or the discharge of any duty provided for by this act;

(26) in addition to the powers specified in clause (6), clear and improve property acquired or held by it and engage in or contract for the construction, reconstruction, demolition, development, redevelopment, rehabilitation, remodeling, alteration or repair thereof;

(27) in addition to the powers specified in clause (6), prior or subsequent to taking possession of or acquiring such lands hold, protect, improve, manage, operate, maintain, repair and use such lands, or any interest therein, as it deems necessary or desirable to facilitate acquisition, disposition, management, operation, development or redevelopment of such lands, or any interest therein.

(28) in addition to the powers specified in clause (6), dispose of such lands, or any interest therein, by sale, lease or otherwise as provided by this act;

(29) in addition to any other power it has to make loans, provide guarantees or mortgage insurance or otherwise provide credit, make and administer loans, provide credit enhancement whether by loan guaranties, letters of credit, insurance or otherwise, and grants of its funds to persons, including without limitation governmental agencies and instrumentalities, and sell participations in said loans or purchase participations in the loans of others, for the acquisition, development, redevelopment, improvement or use of lands described in clause (23), for the construction, rehabilitation, improvement, demolition or maintenance of buildings thereon, for the acquisition, establishment, development, redevelopment, stabilization, management, improvement, maintenance or operation of small business incubator facilities thereon, including, without limitation existing small business incubator facilities, for funding of operating and replacement reserves for such small business incubator facilities, for the capitalization or stabilization of present or future occupants of such small business incubator facilities, and for any other use or purpose necessary or convenient for carrying out the powers expressly granted by this act, on such terms as the Agency may determine to be necessary and consistent with the provisions of this act; provided, however, that any new building construction for a small business incubator facility shall only be considered after exhausting all available alternatives of redevelopment, stabilization and improvement of existing blighted, decadent, distressed and substandard properties.

(30) borrow money by issuance of its debt obligations as provided in section 29;

(31) enter into agreements or other transactions with any person, including without limitation any public entity or other governmental instrumentality or Agency in connection with its powers and duties under this chapter.

(32) in addition to any other power it has hereunder to make loans, provide guarantees or mortgage insurance or otherwise provide credit make or administer loans of funds of other public entities for purposes not inconsistent with the purposes of this act.

(33) in addition to such other powers to own stock or warrants that may be provided hereunder, acquire stock and options or warrants for the purchase of stock in businesses or other public or private entities that are or will be located in a small business incubator facility and sell such stock, options or warrants provided, however, that the Agency shall not acquire more than 49 per cent of the stock of any such business or entity.

Notwithstanding any other provision of this chapter, the Agency shall not be authorized or empowered:

(i) to emit bills of credit or accept deposits of money for time or demand deposit, to administer trusts, to engage in any form or manner in, or in the conduct of, any private or commercial banking business, or to act as a savings bank or savings and loan association;

(ii) to be or to constitute a bank or trust company within the jurisdiction or under the control of the department of banking and insurance of the commonwealth, or the commissioner thereof, the comptroller of the currency of the United States of America or the treasury department thereof; or

(iii) to be or constitute a bank, banker or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange or securities dealers' law

of the United States of America or the commonwealth.

The terms "maintain", "maintaining" and "maintenance" wherever the same are used in this chapter shall include but not be limited to the demolition of improvements on lands acquired by the Agency where such demolition is determined by the Agency to contribute to the reduction or to avoid the likelihood of increase of the expense of maintaining or repairing such lands, and to be consistent with disposition of such lands as provided by this chapter.

Section 4. There is hereby established a Development Finance Insurance Fund to which shall be credited all premiums received by the Agency for insurance or reinsurance provided by it under this section and section 5 and not payable for reinsurance or insurance provided by other insurers, any other sums realized by the Agency pursuant to its industrial mortgage loan insurance agreements or related financing documents related to said fund, whether by way of subrogation or otherwise, any state appropriations or other monies made available to the fund and funds from the Industrial Mortgage Insurance Fund established under the provisions of section 33 of chapter 23A. The fund shall be held in the custody of one or more banks or trust companies having a principal place of business in the commonwealth. The fund shall be held for the security of the holders of industrial mortgage loans or reserves or portions thereof insured under section 34, either as a single fund for all such holders or, subject to the rights of the holders of such loans so insured on November 15, 1983, in such separate funds for the holders of such loans, reserves or portions thereof as the Agency may determine. If any fund is established which is separate from that in existence on November 15, 1983, the holders of insured loans secured by such existing fund on November 15, 1983 and the holders of insured loans, reserves or portions thereof secured by such separate fund shall be secured by such existing fund and such separate fund pro-rata, without preference or priority; but the holders of insured loans, reserves or portions thereof secured by a separate fund established after November 15, 1983 shall not be secured by any other such separate fund unless the documents governing such separate fund otherwise provide. The Development Finance Insurance Fund or funds shall be governed by one or more trust agreements entered into by the Agency with the trustees. Each trust agreement may contain provisions and limitations, which need not be uniform, as to the investment and disbursement of monies in the fund or funds to which it applies, the payment of expenses of such funds, the appointment, resignation and discharge of trustees, the delegation of enforcement and collection powers under the insurance agreements to the trustees, the duties of the trustees, amendments of the trust agreement and such other lawful provisions and limitations as may be deemed appropriate. Unless otherwise provided in the trust agreement applicable to any such fund, income earned by such funds may be used for the purposes of the Agency. Without limiting the foregoing but subject to the pro-rata rights of holders of loans insured on November 15, 1983, such trust agreement may require Agency findings and loan criteria in addition to or stricter than those required by section 5; may limit the amount and characteristics of insured loans, reserves or portions thereof to be secured by a fund or funds; may authorize, restrict or prohibit disbursement of monies in the fund or funds for

costs of enforcing or preserving the mortgage security under the applicable financing documents, for costs of stop-loss or similar insurance to protect the fund or funds, or for other costs the Agency considers appropriate to maintain the integrity of the fund or funds; may require income earned by the fund or funds to be retained for the benefit of the fund; may provide additional security for holders of particular loans, reserves or portions thereof; and may determine the order in which claims, costs and expenses or categories thereof will be paid from the fund or funds. The trust agreement may pledge premiums and other monies which are to be deposited in the fund or funds. Such pledge shall be valid and binding from the time when the pledge is made. The premiums and other monies so pledged and thereafter received by the fund or funds or on its or their behalf by the trustees shall immediately be subject to the lien of such pledge and shall be valid and binding as against all parties having claims of any kind against the fund or funds, irrespective of whether such parties have notice thereof. No filing need be made under the provisions of chapter 106. Whenever the Agency issues bonds any part of the proceeds of which are used to finance insured loans, reserves or portions thereof, all provisions and limitations which may be contained in a trust agreement governing the Development Finance Insurance Fund or funds may instead or in addition be contained in the resolution or trust agreement securing such bonds, without the need for any filing under the provisions of said chapter 106. Subject to the provisions of the trust agreement securing the same, any holder of the bonds of the Agency the proceeds of which were used to finance the insured loans, and the trustee under any trust agreement securing such bonds shall have the right to bring suit to require the application of any amounts in the Development Finance Insurance Fund in accordance with the provisions of this section or of the trust agreement, including, but not limited to, appointment of a receiver for said Development Finance Insurance Fund or any fund held thereunder.

Section 5. (a) In furtherance of the purposes of the fund established pursuant to section 4, the Agency is, in addition to the powers granted under section 2, is also empowered:

(1) to provide insurance or reinsurance of loans or portions thereof, or their debt service, including amounts payable as premiums or penalties in the event of mandatory or optional prepayment, made to finance the acquisition, construction, rehabilitation or alteration, or any combination thereof, of industrial development facilities, pollution control facilities, and solid waste disposal facilities, and to provide insurance or reinsurance or reserves or portions thereof, or the yield therefrom, established to secure bonds issued to fund such loans or reserves;

(2) to enter into or arrange agreements for such insurance or reinsurance with users, mortgagors, lending institutions, insurers or others, the Agency being authorized to reinsure or cede risks to such insurers in such amounts as the Agency may determine and such insurers, if otherwise authorized to reinsure or insure such risks in the commonwealth, being hereby authorized to reinsure the Agency or cede risks to the Agency to the same extent as if the Agency were a company, as defined in chapter 175, authorized under that chapter to reinsure or insure such risks;

(3) to fix a rate or rates of premium for such insurance or reinsurance, which need not be uniform and may reflect such risks and classifications of risk as the Agency determines to be reasonable; and

(4) to exercise such other powers as are necessary or incidental to the foregoing, including without limitation making conditional or unconditional commitments for such insurance or reinsurance, authorizing such commitments to be pledged or assigned as security for financing and setting appropriate fees therefor.

(b) The insurance and reinsurance provided by the Agency shall not be subject to the provisions of chapter 175, or any successor thereto, shall be payable solely from the Development Finance Insurance Fund established by section 4 and shall not constitute a debt or pledge of the faith and credit of the commonwealth or of any subdivision thereof.

(c) The board shall not approve the insurance or reinsurance of a loan unless it makes the following findings prior to the disbursement of the proceeds of a loan to a user or mortgagor:

(1) that the loan is to be secured by a first mortgage of or first security interest in, real or personal property or both satisfactory to the board; or by the assignment of the interest of the lessee under a real estate lease for not less than 99 years, having a period of not less than 75 years to run from the date of the loan in connection with any such loan, any lending institution providing funds, a letter of credit or other property, or any reinsurer providing reinsurance or a commitment to reinsure such loan, may participate in any such mortgage, security interest or assignment and the proceeds thereof following any default, in such manner and in such order of priority of payment as the board shall determine; any such mortgage, security interest or assignment may be assigned by the Agency or granted to the trustee for any bonds of the Agency sold to provide funds for any such loan;

(2) that the mortgagor and mortgagee are responsible parties;

(3) that if not occupied by the user or mortgagor, the project or projects will, or are likely to be, occupied by a responsible party or parties;

(4) that the provisions of the mortgage loan are reasonable and proper, and in making such determination the board may take into account such factors as it deems relevant including, without limitation, the provisions for maintaining, insuring and repairing the project by the mortgagor and the remedies of the board upon default of the mortgagor;

(5) that the project will provide or retain employment having a reasonable relationship to the principal amount of loans to be insured therefor, taking into account, among other things, the investment per employee of comparable industrial development facilities;

(6) that adequate provision is being or will be made to meet any increased demand upon community public facilities that might result from the project;

(7) that the size and scope of the project is such that a definite benefit to the economy of the commonwealth may reasonably be expected to result from the construction or improvement thereof; and the employment created shall be substantially primary employment;

(8) that the principal amount of the loan, excluding any portion thereof the proceeds

of which are to fund reserves and disregarding any other funds or other arrangements obtained for reserve purposes, does not exceed the sum of 90 per cent of the value of the industrial development facility exclusive of machinery and equipment, plus 80 per cent of the cost of the machinery and equipment, plus the reasonable cost of arranging, insuring and issuing bonds to finance such loan as determined by the Agency;

(9) that the duration of the loan shall not exceed 30 years on an industrial development facility exclusive of machinery and equipment and 15 years on machinery and equipment; and that the authorization provisions are satisfactory to the board;

(10) that the insurance or loan agreement provides for subrogation on terms satisfactory to the board upon payment of insured debt service from the fund;

(11) that the public interest is adequately protected by the terms of the loan and of the insurance agreement;

(12) that with respect to all loans on account of a project or projects for any one user or mortgagor, excluding any portions of loans the proceeds of which are to fund reserves and disregarding any other funds or other arrangements obtained for reserve purposes, the debt service or portion thereof including amounts payable as premiums or penalties in the event of mandatory or optional prepayment insured or reinsured by the Agency and not reinsured or insured by other insurers coming due in any one calendar year does not exceed 20 per cent of the amount in the particular fund or funds in the Development Finance Insurance Fund securing such loans when the finding is made; and

(13) that the balance of all loans or portions thereof, excluding portions of loans the proceeds of which are to fund reserves and disregarding any other funds or other arrangements obtained for reserve purposes, insured or reinsured by the Agency and not reinsured or insured by other insurers does not exceed nine times the amount in the Development Finance Insurance Fund when the finding is made.

In addition to the foregoing, the board shall not authorize insurance of a loan for pollution control facilities unless it makes the finding which the finance board is required to make under paragraph (b) of section 22 of chapter 40D.

The board shall consult with the appropriate local and regional planning agencies to ascertain the relationship of a proposed project to any existing local or regional comprehensive plan; that, so far as feasible, the project is to be located in an area of generally high unemployment; and that employment opportunities will become available to the residents of such area.

As used in this section, the terms "industrial development facilities" or "facilities" shall, unless the context requires otherwise, mean facilities used in connection with any industrial enterprises, recreation or research and development enterprises or parts thereof, including any or all buildings, docks, wharves, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, riparian rights, water rights, franchises, machinery, equipment, furnishings, landscaping, utilities, approaches, roadways, pollution control facilities and other facilities necessary or desirable in connection therewith or incidental thereto, such as, but not limited to, office, warehouse, terminal, transportation and

backup power generating facilities, and solid waste disposal facilities.

Any insurance or reinsurance provided by the Agency under this section shall be conclusive evidence that the board has made such determinations and findings, has given such approvals and has reached such conclusions as are a prerequisite to providing such insurance or reinsurance and the validity of such insurance or reinsurance shall be incontestable except for fraud or misrepresentation on the part of the mortgagor or user.

Section 6. (a) There is hereby established within the Agency the Massachusetts Export Development Fund, referred to in this section and section 7 as the fund and which shall be the successor to the Massachusetts Export Finance Fund. Said Massachusetts Export Development Fund shall receive state, federal, and private monies and the return from investment generated thereby, and allocate the same for the purposes of the export finance program. Said fund shall consist of a separate account or accounts segregated from other Agency funds and to which shall be credited any state appropriation or funding from any other source, public or private, which may be made available to the fund.

Notwithstanding the provisions of any general or special law to the contrary, the Agency shall utilize the fund, and be empowered to so utilize the fund, as provided in section 7.

(b) The liabilities or obligations of the Agency for any insurance, co-insurance or loan guarantees made pursuant to the Massachusetts export finance program, shall not extend beyond the funds which are allocated and deposited in the fund and shall not constitute a debt or pledge of the faith and credit of the commonwealth or of any subdivision thereof.

(c) Those monies which are deposited in the fund, pending allocation as provided in this section, may be invested in securities issued by the Treasury of the United States government or the government of the commonwealth. Returns from such investments shall be deposited in the fund and shall be used to support loan guarantees, insurance, and co-insurance as provided in section 7 and to defray the administrative and operational costs of the Massachusetts export finance program.

(d) The monies in the fund shall be paid out by the treasurer of the Agency in furtherance of the purposes of this section and section 7.

Section 7. (a) There is hereby established within the Agency the Massachusetts export development program, successor to the Massachusetts export finance program, to expand employment and income opportunities through increased exports of Massachusetts goods and services by providing actual and potential Massachusetts exporters, including in particular small and medium-sized exporters, with insurance, co-insurance, loan guarantees, and information and technical assistance on export opportunities and exporting techniques in support of increased export transactions.

(b) The Agency shall utilize the Massachusetts Export Development Fund, other than as permitted in subsection (c) of section 6, solely to insure, co-insure and guarantee loans related to export transactions, and to make extensions of the same, made pursuant to the provisions of this section and detailed regulations adopted by the board; provided, however, that the Agency shall make no reservation, encumbrance, or disbursement from the fund unless

and until said regulations have been reviewed and approved in writing by the secretary of economic affairs. Any determination to insure, co-insure and guarantee loans, or to make an extension of the same pursuant to this section, shall be made by the board.

(c) The Agency may charge fees to defray the operating expenses of the export finance program. The amount of the fees shall be determined by the board.

(d) Loan guarantees and insured export transactions shall be secured by no less than a 30 per cent reserve in the fund. The board may elect to require a higher reserve. The regulations adopted by the board as provided in subsection (b) shall include provisions regarding the terms and limits for loan guarantees to be secured by the fund; provided, however, that in no instance shall a loan guarantee secured by the fund exceed either of the following: (1) 70 per cent of the required financing or (2) \$500,000.

(e) The Agency shall make no affirmative determination to insure, co-insure or guarantee any loan or any extension of the same to be secured by the fund unless and until the board has made the following findings of fact, to be incorporated in the formal records of its proceedings:

(1) that borrowers have a minimum equity interest in the business as determined by the board;

(2) that the proposed loan guarantees, insurance and coinsurance will be extended to companies that export goods and services produced primarily in Massachusetts or to companies which export goods and services and which have their principal place of business in Massachusetts;

(3) there exists adequate collateral or security agreements to ensure the full repayment of loan guarantees and solvency of any insurance or co-insurance program extended under this chapter and to assist in evaluating the program;

(4) that, to the extent possible, said loan guarantee or insurance or coinsurance is such that a definite benefit to the economy of the commonwealth may reasonably be expected therefrom; and

(5) that financing assistance secured by the fund shall only be extended in one or both of the following circumstances:

(i) as part of a governmental match which may be required to secure participation of Massachusetts firms in federal, state, or private financing programs;

(ii) if adequate financing assistance is not readily available from public or private sources in a timely manner.

(f) In administering the fund and the export finance program, the Agency shall coordinate to the maximum extent possible with the programs and goals of the United States Export-Import Bank, the International Trade Administration of the United States Department of Commerce, the Foreign Credit Insurance Association, the Massachusetts office of international trade and investment, and other private and public programs, designed to provide export assistance and export-related financing; and assemble, publish, and disseminate information to Massachusetts exporters on export opportunities, techniques of exporting, sources of public and private export assistance, and sources of export-related financing.

(g) No company shall be eligible for a loan guarantee under this section until it complies with the terms of this section.

(h) The Agency shall, prior to making any loan guarantee pursuant to this section comply with the following requirements: (1) develop or distribute written materials and other information it believes appropriate to familiarize any company interested in exporting with how to enter the export market; (2) to distribute said materials and information, the Agency shall present a series of seminars throughout the commonwealth; and, (3) a loan guarantee may only be offered to a company which has attended at least one seminar within one year prior to its application.

(i) Nothing contained in this section shall be deemed to be a pledge of the credit of the commonwealth.

Section 8. (a) The Agency may finance industrial development facilities and pollution control facilities and waste disposal facilities and exercise the powers of an industrial development financing authority under the provisions of chapter 40D throughout the commonwealth and may issue bonds under this subsection (a) in furtherance of these purposes in the same manner provided by said chapter 40D for local authorities. For this purpose the provisions of said chapter relating to local authorities and to municipalities acting by and through them and to their bonds shall apply to the Agency and its bonds except that the following provisions of chapter 40D shall not apply to the Agency: sections 2, 3, 4, 5, 6, the third paragraph of section 8, the fourth paragraph of section 10, section 12, except the findings required to be made under clauses (a) to (k), inclusive of subsection (2), the sixth to eleventh sentences, inclusive, of section 18, section 19 and paragraphs (a) to (e), inclusive, of section 21 and the power of the Agency in this section shall be exercised notwithstanding the provisions of clause (ii) of section 8, sections 9, 10, 13 and 14 of said chapter 40D. Refunding or refinancing of outstanding costs, obligations, mortgages or advances made by an institution in connection with a facility or facilities that provide cultural or educational services prior to the authorization of bonds by the board of the Agency may be financed for any such institution.

With respect to bonds issued for the foregoing purposes under this subsection (a), the Agency shall make the findings required to be made by the Massachusetts Industrial Finance Agency board in said chapter 40D, except that in the case of bond anticipation financing no findings shall be required concerning a trust agreement as specified in clauses (d) and (h) of subsection (2) of section 12 of said chapter 40D. The Agency may issue bonds under this subsection (a) to finance the improvement of any building or buildings for mixed commercial and residential use only if the Agency and the governing body of the municipality in which the project is located find, after a public hearing held not less than ten days after publication of notice thereof in a newspaper of general circulation in such municipality, with respect to the portion of the project to be used for housing, that such portion is located in, or is needed to prevent the area in which it is located from becoming, a substandard, decadent or blighted open area, as defined in section 1 of chapter 121A; that the area will not by private enterprise alone and without either governmental subsidy or the exercise of governmental powers be

developed or revitalized in such a manner as will prevent, arrest or alleviate the spread of blight or decay; and that such portion of the project is consistent with the sound needs of the municipality as a whole.

The Agency shall inform sponsors of projects in appropriate cases of available federal programs to guarantee or otherwise assist in financing certain types of activities and shall assist sponsors in such cases in implementing such programs through commercial and investment bankers. When the Agency receives an inquiry from a potential sponsor of a project for financing under this subsection, it shall promptly notify in writing (i) the industrial development financing authority if such an authority exists in the city or town where such project is proposed to be financed; or (ii) the mayor or board of selectmen in said city or town where no such authority exists. In the case of a city or town having an industrial development financing authority the Agency shall provide such authority with all practicable assistance in completing the said project promptly. If, however, the board of the Agency shall find in the exercise of its reasonable discretion that such local authority has not acted in a timely fashion in processing the application of the project's sponsor or other aspects of the project without reasonable grounds for such delay, the Agency may undertake the financing of the project directly with the sponsor without the intervention of the local authority. At any time a city or town may require the Agency to assume the role of an authority in financing a project under this subsection. If a city or town having an industrial development finance authority has rejected, in a timely fashion, a proposed project for financing by such authority under said chapter 40D, it shall notify the Agency of that rejection, and the Agency shall not undertake that project in the city or town.

(b) The Agency may lend money to one or more users to finance economic development projects as an alternative to its authority under subsection (a), and as an incident to any such loan the Agency may enter into financing documents and may acquire and hold any duly authorized payment obligations of such users. The Agency may issue its bonds for financing such loans, provided that no bonds issued by the Agency under the authority of this subsection shall be accompanied by a certificate or legal opinion to the effect that interest on the bonds is excludable from gross income of the recipients for federal income tax purposes. No financing shall be provided by the Agency under this subsection for any project for housing if such financing may be provided by the Agency through the intermediacy of another public body pursuant to subsection (c), and no financing shall be made by the Agency for the purposes of this subsection unless the Agency shall first have determined that:

- (i) the user is a responsible party;
- (ii) the financing of the project is reasonably expected to stimulate economic growth or stability within the commonwealth and will, as a result, confer a definite benefit on the citizens of the commonwealth, and any private benefit which may be derived from the project will not be so disproportionate as to override the public purpose of stimulating or stabilizing the economy of the commonwealth;
- (iii) the project will provide employment, or security against loss of employment, having a reasonable relationship to the principal amount of the Agency's loan therefor;

(iv) the Agency's bonds and any financing document contain reasonable provisions and comply with the provisions of this chapter;

(v) payments to be made under applicable financing documents are adequate to pay the current expenses of the Agency in connection with the project and to make payments on the bonds; and

(vi) the sponsor of the project does not do business in Northern Ireland absent compliance with the McBride Principles, so-called.

(c) The Agency may lend money to one or more public bodies in order to assist said public bodies in carrying out their corporate purposes and as an incident to any such loan the Agency may acquire and hold the bonds, notes or other duly authorized payment obligations of said public bodies. The Agency may issue bonds for the purpose of financing such lending. In financing documents pertaining to such lending, the Agency may require the public body to pay any fixed annual charges and any fees and expenses charged by the Agency for its services rendered in connection with the acquisition by the Agency of such obligation. Upon the issue to the Agency of any obligations of a public body for purposes of this section, the public body issuing such obligations shall be deemed to have agreed that, in the event of the failure of such public body to pay the interest and premium, if any, on, and principal of, such obligations, and notwithstanding the provisions of any other law, the Agency may thereupon avail itself of all remedies, rights and provisions of law applicable in such circumstances, and no delay or failure to exercise any such rights and remedies on the part of the Agency may be raised as a defense by such public body.

No loan shall be made by the Agency for the purposes of this subsection unless the Agency shall have first received assurance satisfactory to the Agency that the payment obligations of the public body to be acquired by the Agency in connection with such loan are valid and binding obligations of the public body enforceable in accordance with their terms; provided, however, that the provisions of this act shall not be construed to expand the power or purpose of any public body except the Agency.

(d) The Agency shall provide for issuance of its bonds from time to time by resolution of the board of directors. An issue of bonds of the Agency may combine more than one of the Agency's authorized purposes for borrowing money. Bonds issued by the Agency may be issued as general obligations of the Agency or as special obligations payable solely from particular revenues or funds as may be provided for in any financing document pertaining thereto. Bonds of each issue may be dated, may bear interest at such rate or rates, including rates variable from time to time, may be payable in any domestic or foreign currency and at any domestic or foreign location, and may mature or otherwise be payable at such time or times, as may be provided for by the Agency, and may be made redeemable or determinable before maturity at the option of the Agency or the holder thereof at such price or prices and under such terms and conditions as may be fixed by the Agency. The Agency shall determine the form of bonds, including interest coupons, if any, to be attached thereto, and the manner of execution of such bonds, and shall fix the denomination or denominations of such bonds and the place or places of payment of principal, redemption premium, if any,

and interest thereon. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery thereof, such signature or facsimile shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office until delivery. The Agency may provide for authentication of bonds by a trustee, fiscal agent, registrar or transfer agent. Bonds may be issued in bearer or in registered form, or both, and, if notes, may be made payable to bearer or to order, as the Agency may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of bonds registered as to both principal and interest and for the interchange of bonds registered as to both principal and interest and for the interchange of registered and coupon bonds. The Agency may also establish and maintain a system of registration for any bonds whereby the name of the registered owners, the rights evidenced by the bonds, the transfer of the bonds and such rights and other similar matters are recorded in books or other records maintained by or on behalf of the Agency, and no instrument evidencing such bond or rights need be delivered to the registered owner by the Agency. A copy of the books or other records of the Agency pertaining to any bond registered under such registration system certified by an authorized officer of the Agency or by the agent of the Agency maintaining such system shall be admissible in any proceeding without further authentication. The board may by resolution delegate to any director or directors or officer or officers of the Agency or any combination thereof the power to determine any of the matters set forth in this section. In the discretion of the Agency, bonds of the Agency may be issued with such terms as will cause the interest thereon to be subject to federal income taxation. The Agency may sell its bonds in the manner, either at public or private sale, for the price, at the rate or rates of interest, or at discount in lieu of interest, as it determines will best effect its corporate purposes. The Agency may issue bonds for any of its authorized purposes without obtaining a certificate of convenience and necessity from the department of commerce and development. Notwithstanding the provisions of subsections (a) and (b), the bonds of any such issue may be issued prior to the making by the Agency of the findings required to be made, provided that the board makes such findings prior to the disbursement of the proceeds of a loan to a user or a public body.

(e) Said Agency may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds shall have been executed and are available for delivery. The Agency may also provide for replacement of any bonds which shall have become mutilated or shall have been destroyed or lost. The Agency, by itself or through such agent as it may select, may purchase and invite offers to tender for purchase any bonds of the Agency at any time outstanding; provided, however, that no such purchase by the Agency shall be made at a price, exclusive of accrued interest, if any, exceeding the principal amount thereof or, if greater, the redemption price of such bonds when next redeemable at the option of the Agency, and may resell any bonds so purchased in such manner and for such price as it may determine will best effect its corporate purposes.

(f) Without limiting the powers of the Agency contained elsewhere in this chapter or

in chapter 40D, in connection with any such issue of bonds, the Agency may create and establish one or more special funds, hereafter referred to as "bond reserve funds", and may establish one or more costs of issuance accounts, and shall pay into each such bond reserve fund or costs of issuance account any proceeds of sale of bonds or letter of credit or insurance policy or other financing document as may be provided in the resolution authorizing the issuance of, or financing document securing, such bonds and any other moneys which may be available to the Agency for the purpose of each such fund or account from any other source or sources. Whenever the Agency issues such bonds to fund reserves or costs of issuance, it may determine whether or not the cost of funding such reserves or costs of issuance, shall be treated as a cost of the project and whether or not a financing document shall be required to provide payments to amortize principal and interest of such bonds. In any event, the expected yield on bond reserve funds may, with the approval of the Agency, be taken into account in determining the sufficiency of payments required under a financing document to amortize bonds issued for costs of the project. All moneys held in any bond reserve fund may be pledged to, and charged with, the payment of the principal of and the interest on the bonds with respect to which such bond reserve fund may be established, as the same shall become due, and the redemption or purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. The use and disposition of moneys to the credit of such bond reserve fund shall be subject to the provisions of the resolution authorizing the issuance of, or financing document securing, such bonds. Except as may otherwise be provided in such resolution or such financing document, such bond reserve fund shall be a fund for bonds issued to finance all such projects without any distinction or priority of any bond over another; provided the Agency in any such resolution or financing document may provide that such bond reserve fund shall be the fund for a particular project and for the bonds issued to finance a particular purpose and may, additionally, permit and provide for the issuance of bonds having subordinate lien in respect of the security authorized to other bonds of the Agency and, in such case, the Agency may create separate or other similar funds in respect of such subordinate lien bonds.

(g) In the discretion of the board of directors, any bonds issued hereunder may be secured by a financing document in such form and executed in such manner as may be determined by the board of directors between the Agency and the purchasers or holders of such bonds or between the Agency and a corporate trustee which may be any trust company or bank having the powers of a trust company within or without the commonwealth. Such financing document may pledge or assign, in whole or in part, the revenues and funds held or to be received by the Agency, and any contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the Agency, and the proceeds thereof. Such financing document may contain such provisions for protecting and enforcing the rights, security and remedies of bondholders as may be reasonable and proper, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof which may include

the acceleration of maturities, restrictions on the individual right of action by bondholders and covenants setting forth duties of and limitations on the Agency in conduct of its programs and the management of its property. In addition to other security provided herein or otherwise by law, bonds issued by the Agency may be secured, in whole or in part, by financial guarantees, by insurance or by letters of credit issued to the Agency or a trustee or any other person, by any bank, trust company, insurance or surety company or other financial institution, within or without the commonwealth, and the Agency may pledge or assign, in whole or in part, the revenues and funds held or to be received by the Agency, and any contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the Agency, and the proceeds thereof, as security for such guarantees or insurance or for the reimbursement by the Agency to any issuer of such letter of credit of any payments made under such letter of credit.

(h) It shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of bonds, revenues or other moneys under a resolution, financing document or other agreement of the Agency and to furnish indemnification and to provide security as may be required by the Agency. Any pledge of revenues and other funds made by the Agency under the provisions of this chapter shall be valid and binding and shall be deemed continuously perfected for the purposes of the uniform commercial code and other laws when such pledge is made. The revenues and funds, rights therein and thereto and proceeds so pledged and then held or thereafter acquired or received by the Agency shall immediately be subject to the lien of such pledge without any physical delivery or segregation thereof or further act, and the lien of any such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the Agency, whether or not such parties have notice thereof. The resolution or financing document by which a pledge is created need not be filed or recorded to perfect such pledge except in the records of the Agency and no filing need be made under the uniform commercial code. It is hereby declared that any pledge or assignment made under the authority of this chapter is an exercise of the political and governmental powers of the Agency, and revenues or funds, contract or other rights to receive the same and the proceeds thereof which are subject to the lien of a pledge or assignment created under this chapter shall not be applied to any purposes not permitted by such pledge or assignment.

(i) Any holder of a bond issued by the Agency or of any of the coupons appertaining thereto and any trustee or other representative under an applicable financing document pertaining to the same, except to the extent the rights herein given may be restricted by a financing document, may bring suit upon the bonds or coupons and may, either at law or in equity, by suit, action, mandamus, or other proceeding for legal or equitable relief, including proceedings for the appointment of a receiver to take possession and control of the business and properties of the Agency, to fix, revise and collect charges, protect and enforce any and all rights under the laws of the commonwealth or granted hereunder or under a resolution or financing document, and may enforce and compel performance of all duties required by this chapter or by such bond resolution, trust agreement or other agreement, to be performed by

the agent or by any officer thereof.

(j) Bonds issued by the Agency shall not constitute a debt or a pledge of the faith and credit of the commonwealth, but shall be payable solely from the revenues provided for under a financing document in connection therewith or from reserve funds or other funds of the Agency or from funds derived from the issuing of duly authorized refunding bonds. All bonds issued by the Agency shall suitably state that the bonds are not an obligation of the commonwealth but are payable solely from the funds specifically pledged for their payment.

(k) The Agency may issue refunding bonds for the purpose of paying any of its bonds issued under the provisions of this chapter or other applicable law at or prior to maturity or upon acceleration or redemption or purchase and retirement. Refunding bonds may be issued at such times at or prior to the maturity, redemption or purchase and retirement of the refunded bonds as the board deems to be in the interest of the Agency. Refunding bonds may be issued in sufficient amounts to pay or provide for payment of the principal of the bonds being refunded, together with any redemption premium thereon, any interest or discount accrued or to accrue to the date of payment of such bonds, the costs of issuance of the refunding bonds, the expenses of paying, redeeming or purchasing the bonds being refunded, the costs of holding and investing proceeds of refunding bonds pending such payment, redemption or purchase and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by a bond resolution, financing document or other agreement securing bonds. The issue and sale of refunding bonds issued pursuant to this subsection, the maturities and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties and obligations of the Agency in respect of the same shall be governed by the provisions of this chapter relating to the issue of bonds other than refunding bonds insofar as the same may be applicable.

Section 9. The bonds of the Agency and any loan or extension of credit which is the subject of insurance or reinsurance or an insurance or reinsurance commitment pursuant to sections 4 and 5, shall be legal investments in which all public officers and public bodies of the commonwealth, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, banking associations, trust companies, savings banks and savings associations, including cooperative banks, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the commonwealth, may properly and legally invest funds, including capital, in their control, or belonging to them. The bonds and any loan or extension of credit which is the subject of insurance or reinsurance or an insurance or reinsurance commitment pursuant to said sections 4 and 5 are also hereby made securities which may properly and legally be deposited with and received by all public officers and bodies of the commonwealth or any Agency or political subdivisions thereof and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the commonwealth is now or may hereafter be authorized by law.

Section 10. The books and records of the Agency shall be subject to a biennial audit by the auditor of the commonwealth.

Section 11. The Marine Seafood Processing Revolving Loan Fund established under the provisions of section 38A of chapter 23A shall be under the control of the Massachusetts Development Finance Agency but shall consist of a separate account or accounts segregated from other Agency funds, to which shall be credited any appropriations made to the Agency for seafood processing industry purposes, together with such other accounts as may become available from any other source. The Agency may from time to time withdraw from the Marine Seafood Processing Loan Fund such amounts as may be necessary to provide funds for the administration of this section and sections 13 and 14. No funds shall be appropriated nor credited to the fund until the advisory council established pursuant to paragraph (a) of section 12, has filed an approved, recommended program with the clerks of the senate and the house of representatives and with the commissioner of administration.

Section 12. The Massachusetts Development Finance Agency may establish rules and regulations relative to the Marine Seafood Processing Revolving Loan Fund.

In addition thereto the Agency is hereby authorized to:

(a) establish a marine seafood processing loan fund advisory council, which shall consist of seven members, three members to be appointed by the Massachusetts Development Finance Agency board of directors, experienced in business and finance, who may also be members of the Massachusetts Development Finance Agency board, two members appointed by the commissioner of banks who are experienced in banking or marine financing, and may include the commissioner of banks or his designee, two members appointed by the commissioner of fisheries and wildlife who are experienced in marine food processing or marine affairs, and may include the commissioner or his designees, said council shall act in an advisory capacity to the Massachusetts Development Finance Agency board in matters relative to the financing of marine seafood processing loan applications and said council may review and provide technical comments regarding each loan application submitted to the Massachusetts Development Finance Agency board for approval.

Said council shall, after providing due notice and opportunity for a hearing, recommend a program to provide sources of funds, including, but not limited to, federal, state or private funding, and issuance of debt or industry assessments for the Marine Seafood Processing Revolving Fund. Such recommended program shall, after approval by the board of directors of Massachusetts Development Finance Agency, be filed with the clerks of the senate and the house of representatives and with the commissioner of administration.

(b) upon application of an industrial enterprise engaged in the collection or processing of seafood, make loans of moneys held in the Marine Seafood Processing Loan Fund and provide for the repayment and redeposit of such allocations and loans in the manner hereinafter provided:

(1) not more than \$200,000 shall be loaned to any one enterprise. If the board determines, after the initial loan by the Agency, that additional moneys are required to protect the initial loan of the Agency, it may approve an additional loan not to exceed the amount

of the initial loan; the processor may use the proceeds of the loan for the purposes of financing operations, inventory, or such other purposes as may be approved by the board;

(2) upon default, take title by foreclosure proceeding to any marine processing project to recover any loan previously made therefor by the Agency and pay all costs arising out of such foreclosure and acquisition from moneys held in the Marine Seafood Processing Loan Fund and sell, transfer and convey any such marine processing project to any responsible buyers in the event such sale, transfer or conveyance cannot be affected within a reasonable time. The Agency may lease such facilities to a responsible tenant or tenants to minimize financial losses and sustain employment. The Agency shall not lease marine processing facilities except under the conditions and for the purposes cited herein;

(c) finance marine seafood processing projects which shall be in addition to any other power of the Agency; provided, however, that nothing with respect to the Marine Seafood Processing Loan Fund shall be construed to limit or otherwise affect any other power of the Agency.

Section 13. The board of directors of the Agency may, upon application by a marine seafood processor, grant a loan based upon its finding that it will contribute to the economic stimulation of the company, support the growth of the seafood industry as a whole, and is consistent with its public purpose.

Any seafood processor may make an application to the Agency in a form approved by the Agency which shall contain at least the following:

(1) a general description of the company, including but not limited to, a business plan, corporate history, last audited financial statement and an inventory of equipment owned or to be purchased;

(2) a general description of the number, type and class of employees employed or to be employed in the operation and the total of salary expenditures;

(3) a description of all real estate held or used in conjunction with the applicant's business, including leased facilities and a list of encumbrances thereon;

(4) evidence that the loan will enhance seafood production, and the efficient operation of the facility, and also increase or retain employment;

(5) such other financial information as the Agency shall deem necessary including personal financial information of the applicant and principals of the applicant.

The powers, rights and funds granted to the Agency in this section and in sections 11 and 12 shall in no way derogate or diminish any other power or right of the Agency granted elsewhere, including without limitation, the Agency's power to make loans consistent with this chapter to seafood processors with funds other than those contained in the Marine Seafood Processing Loan Fund.

Section 14. Whenever the United States shall give notice that any lands, or any interest therein, are available for disposal or make advertisement for bids with respect to such lands, or such interest, the Agency as successor to the Massachusetts government land bank, may take whatever steps are required by federal law or regulations to acquire such lands, or such interest; provided, however, that the Agency shall, within one year from such notice or

such advertisement, make no offer or bid to acquire such lands in competition with that of any municipality or municipalities, or any designee thereof, within which such land lies, unless such offer or bid is necessary, in the judgment of the Agency, to prevent acquisition of such lands, or such interest, other than by such municipality or municipalities, or any designee thereof, or the Agency. Upon the recording of a deed conveying to the Agency all of the interest of the United States of America in and to any lands included within the United States Navy Yard, Boston, Massachusetts, title to which was granted by the commonwealth to the United States of America by and pursuant to chapter 535 of the acts of 1941, all right, title and interest of the commonwealth in and to any such lands shall pass to the Agency.

Section 15. Notwithstanding any provision of general or special law to the contrary, upon the recording in the Suffolk county registry of deeds of a deed or deeds from the United States of America conveying to the Agency or to the Boston Redevelopment Authority as grantee all or any portion of the premises within the United States Navy Yard, Charlestown section of Boston, Massachusetts, now owned in part by the United States of America and in part by the Boston Redevelopment Authority, bounded northwesterly by Little Mystic Channel, easterly and southeasterly by the main channel of Boston Inner Harbor, southwesterly by the Charles River and northwesterly by the lands of others: (a) it shall be deemed conclusively that jurisdiction to said premises vested in the United States of America in accordance with the terms of any special acts whereby the commonwealth ceded jurisdiction to said premises to said United States and, further, that said United States has complied with all conditions imposed by such acts; (b) all right, title and interest of the commonwealth in and to any such premises shall pass to and vest in the grantee, establishing fee simple absolute title in the grantee, all without further evidence of conveyance by the commonwealth and all interests of the commonwealth are hereby ratified and confirmed in the respective grantees of any such deed or deeds of all or any portion of these premises so recorded prior to the enactment hereof; and (c) all licenses and authority to place fill, to maintain existing fill, to build and maintain bulkheads, to drive piles, to build, extend and widen wharves, piers and other structures on piles or on other support structures or to construct other structures heretofore or hereafter granted under the applicable provisions of chapter 91 of the General Laws and all actions of the United States of America taken in respect to placing and maintaining fill or building and maintaining bulkheads, piles, wharves, piers or other structures completed prior to the date of enactment hereof, whether or not so placed, built or maintained in accordance with the applicable provisions of any general or special act, deed, grant or other instrument authorizing or conveying the same and whether or not so placed, built or maintained in accordance with any plans that may have been filed or required to be filed with the commonwealth or any Agency or political subdivision thereof, all with respect to said premises, shall be irrevocable and ratified and confirmed in place, the commonwealth hereby waiving any right or claim of action it might have for the recovery of said land or any interest therein below high water mark to or in such fill or appurtenant structures or to restrict the use of same.

Section 16. The Agency may take possession of or acquire blighted lands or incubator

development lands or an interest therein or make loans, loan guarantees or grants for the redevelopment of blighted lands only after a public hearing and a determination by the Agency that such lands are decadent, substandard or blighted open areas.

The Agency may dispose of federal surplus, blighted or incubator development lands or an interest therein only after approval of a redevelopment plan for federal surplus or blighted lands, or an incubator development plan for incubator development lands by the board of directors of the Agency, which approval shall not occur until a public hearing is held on said redevelopment or incubator development plan and provided such lands shall be developed or redeveloped in accordance with said redevelopment plan or incubator development plan. The Agency shall not approve a redevelopment or incubator development plan for such lands within one year of the acquisition or possession by the Agency of such lands or an interest therein unless the city council, board of aldermen or board of selectmen of the municipality or municipalities in which the lands lie have approved said redevelopment or incubator development plan. The Agency may extend the one year period by petition of any municipality wherein the lands are located.

The Agency may take possession of or acquire state surplus lands or an interest therein only after approval of a redevelopment plan for such lands by the board of directors of the Agency, the city council, board of aldermen or board of selectmen of the municipality or municipalities in which the lands lie, and the deputy commissioner of capital planning and operations, which approvals shall not occur until a public hearing is held on said redevelopment plan. Such lands shall be developed or redeveloped in accordance with said redevelopment plan and if a formal competitive process will not be the method utilized for the disposition of such lands or interests to a private person or entity, the Agency shall disclose the reasons therefore in the central register published by the secretary of state prior to such disposition.

The Agency shall, in accordance with section 3 of chapter 30A of the General Laws, establish general rules and regulations governing the evaluation and selection criteria for development proposals for all state surplus lands acquired by it, prior to the acquisition of any state surplus lands by the Agency.

No redevelopment or incubator development plan shall be approved by the Agency unless the Agency finds that such plan provides for the development, redevelopment, operation, or maintenance of the lands, in whole or in part, substantially for institutional, governmental industrial, commercial or residential uses which will prevent or eliminate blight, economic dislocation, economic distress, or unemployment, or for the construction or rehabilitation upon the lands or decent, safe and sanitary housing, at least 25 per cent of which shall be made available to persons of low and moderate income, or for such other public purposes as the Agency may determine are generally consistent with the provisions of this chapter; that such plan is consistent with the sound needs of the locality as a whole, with particular regard to the prevention of blight, economic dislocation and unemployment or the alleviation of the shortage of such housing; that such plan is financially sound; and that such plan meets such other requirements as the Agency may by regulation establish.

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No redevelopment or incubator development plan shall be materially amended unless the public hearing and approval procedures as specified in this section for redevelopment or incubator development plans are complied with prior to any such amendment.

Redevelopment or incubator development plans shall contain a general description of the lands and of the purposes for which the lands will be developed, redeveloped, operated or maintained, the anticipated financing sources for said development, redevelopment, operation or maintenance and the role of the Agency in and the anticipated public benefits and public subsidies that will result from the development, redevelopment, operation or maintenance of such lands. If a redevelopment plan is for state surplus lands, said plan shall also contain a description of (a) any reuse restrictions imposed by the general court or the deputy commissioner of capital planning and operations and how said restrictions will be enforced by the Agency; and (b) the disposition process to be utilized for such lands.

Any required public hearings need not be adjudicatory hearings as provided by chapter 30A. Notice for said public hearings must be published in a daily newspaper of general circulation in the area in which the land is located at least seven days prior to said hearings and the requirements of sections 11A and 11B of said chapter 30A shall be met. At least seven days prior to public hearings on redevelopment or incubator development plans, said plans shall be available for public review at the offices of the Agency.

The provisions of this section shall apply only to the exercise by the Agency of its powers under clause (23) and clauses (26) to (29), inclusive of section 3.

Section 16A. The department of environmental management shall designate the walking track located at the Quinsigamond state park in the city of Worcester as the, "State Representative Andrew Collaro walking track"; provided, however, that the tennis courts located in said state park shall be designated as the "Senator Daniel J. Foley tennis courts".

Section 16B. Notwithstanding the provisions of any general or special law to the contrary, North Shore Community College, with the approval of the board of higher education, may borrow an amount not to exceed \$12,000,000 through the Massachusetts Health and Educational Facilities Authority or any other authorized funding source.

Section 16C. The department of fisheries, wildlife and environmental law enforcement may take by eminent domain under chapter 79 of the General Laws for endangered species habitat and open space protection purposes a portion of the registered and unregistered land in Dennis, Barnstable county, Massachusetts, taken by the Dennis Water District, a body politic, for water well protection purposes described in an Order of Taking dated May 6, 1996 and recorded in the Barnstable county registry of deeds in book 10191 at page 272 and registered as document numbered 665160, which portion to be taken by the department shall be shown on a plan of land to be prepared by said department.

Section 17. Any disposition of lands, or an interest therein, which were acquired by the Agency pursuant to section 16 may be made in such manner whether by sale, lease, or otherwise, by parcels which are the same as or different from those by which they were acquired or taken possession of by the Agency, and for such price, rental or other consideration payable over such term, and bearing interest as to deferred payments and secured in such

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manner, by mortgage or otherwise, all as the Agency may determine to be desirable and consistent with any applicable provisions of any applicable redevelopment or incubator development plan.

Prior to the disposition of state surplus lands or an interest therein which were acquired by the Agency pursuant to section 16 to a natural person or entity, the Agency shall undertake an independent determination of the value of such lands through procedures customarily accepted by the appraising profession as valid for determining property value. If such disposition is for consideration which is less than such value, the Agency shall, prior to such disposition, disclose in the central register published by the secretary of state the difference between the value of such parcel and disposition price of such parcel and by notice to the house and senate committees on ways and means.

The Agency may, in accordance with the provisions of section 2 of chapter 30A of the General Laws, adopt such rules and regulations as it may deem desirable for the exercise of its powers and the discharge of its duties as provided in this section.

Section 18. There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Government Land Bank Fund. There shall be credited to said fund the following:

(a) after deducting the administrative expenses of the Agency, all principal and interest received by the Agency under a mortgage made by the Agency's predecessor, the Massachusetts government land bank, financed by the proceeds of an industrial development bond or note as such term, or a successor term of comparable import, is defined by the Internal Revenue Code of 1954, issued by the commonwealth on behalf or for the purposes of one of the said Massachusetts government land bank.

(b) monies transferred from the reserves of the Agency pursuant to a vote of the board of directors of the Agency;

(c) all monies transferred pursuant to an authorization by the general court or by law.

Revenue credited to the Government Land Bank Fund shall be used for debt service on bonds and notes issued by the commonwealth on behalf of the Agency's predecessor, the Massachusetts government land bank, or upon appropriation by the general court.

The comptroller of the commonwealth shall quarterly file a report with the house and senate committees on ways and means and the secretary of administration and financing detailing the balance of the fund.

The proceeds of an industrial development bond as such a term, or a successor term of comparable import, is defined by the Internal Revenue Code of 1954 issued after September 1, 1982 by the Agency's predecessor, the Massachusetts government land bank, shall not be used to reduce any deficit existing in said fund.

The provisions of this section shall not apply to any bond issued by the Agency's predecessor, the Massachusetts Industrial Finance Agency nor to any bond issued by the Agency.

Section 18A. The commonwealth shall remain liable for the payment of bonds issued under section 8A of chapter 212 of the acts of 1975, as amended, and for contract assistance

obligations under section 8B of said chapter 212 in respect of bonds issued prior to the enactment of this act, each to the same extent as before the enactment of this act.

Section 19. The Agency may make grants and undertake financing transactions under the provisions of clause (29) of section 3 only upon the approval by the Agency of an application containing the following information:

- (a) identification of the applicant;
- (b) a description of the project including a financing plan;
- (c) a description of how the Agency's interest will be secured; and
- (d) a description of the public benefits to be derived from the project.

No such application shall be approved by the Agency unless the Agency finds that the transaction represented in such application provides for the capitalization or stabilization of a business that is or will be located in a small business incubator facility or for the acquisition, development, improvement, redevelopment, operation, maintenance or use of lands, in whole or in part, or the construction, rehabilitation, demolition or maintenance of the buildings thereon, or the acquisition, establishment, development, improvement, redevelopment, stabilization, management or operation of small business incubator facilities thereon, substantially for industrial, commercial or residential uses which will prevent or eliminate blight, economic dislocation, economic distress or unemployment, or for the construction, rehabilitation or maintenance upon such lands of decent, safe and sanitary housing, at least 25 per cent of which will be made available to persons of low and moderate income, or for such other public purposes as the Agency may determine are generally consistent with the provisions of this chapter; that such project is consistent with the sound needs of the locality as a whole, with particular regard to the prevention of blight, economic dislocation, economic distress or unemployment, or the alleviation of the shortage of such housing; that such project is financially sound; and that such project meets such other requirements as the Agency may by regulation establish.

Section 20. The small business incubator facilities that receive financial assistance from the Agency shall not be located within a 25 mile radius of another small business incubator project approved by the Agency.

Section 21. In addition to other requirements contained in this chapter, each incubator development plan or loan, loan guarantee or grant application related to a small business incubator facility shall:

(i) make provision for a professional business manager or be accompanied by a contract between a professional management service and the incubator sponsor. Said business management contract shall include whenever possible but not be limited to the regional Small Business Development Centers established pursuant to 15 USC 648, if such assistance is provided without charge to said sponsors;

(ii) contain a needs analysis demonstrating a shortage of small units of industrial space for businesses in the service area of the proposed facility; and

(iii) adequately demonstrate the capacity of the recipient to make or administer loans or investments to capitalize businesses that are or will be served by said facility.

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Section 22. Before approving an application to a small business incubator facility, the incubator sponsor shall require that an applying business must show evidence of the following:

- (1) the business applying for financial aid has a clearly developed business concept or prototype;
- (2) the business has a reasonable chance of being commercially successful;
- (3) the financial aid provided by the Agency shall be used to further commercialization of the business including, but not limited to, the further development of the business; the construction of a prototype, the development of a manufacturing process to produce, or to implement a marketing or distribution strategy for the product;
- (4) financial aid by the Agency is necessary for the commercial development of the business because funding for such commercial development of the business is only available on terms that would substantially hinder its successful commercial development; and
- (5) the employment created or maintained by commercial development and production of the business will be in the commonwealth.

The incubator sponsor shall only permit eligible businesses, including, without limitation small businesses located in existing small business incubator facilities, to be tenants in such incubator facility.

For the purposes of this section, the word "business" shall mean any individual, firm, corporation, partnership, trust or other legal entity, in the process of formation or starting as a new business, engaged in, but not limited to, the research, development and construction of a prototype, the development of a manufacturing process to produce the product or to implement a marketing or distribution strategy for the product, including a business located in an existing incubator facility or an existing business which demonstrates a significant diversification of its product line.

Section 23. The incubator sponsor shall require tenant businesses to leave the incubator facility within five years. The incubator sponsor, upon determination by the governing board of the incubator facility, may allow a tenant business a limited extension of time beyond the five year period to remain in the incubator. The considerations shall include, but not be limited to, available space in the facility; the achievement of financial viability within the extension period; and the inadequacy or lack of affordable space, with good faith substantiation of an effort to secure reasonable relocation space.

Section 24. The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary, but not exceeding, in the aggregate, the sum of \$40,000,000, for the purposes of acquisition, holding, protection, maintenance, repair or use of lands or for provision of personnel and administrative cost of the Agency as provided by this chapter, and may issue and renew from time to time bonds or notes of the commonwealth therefor bearing interest at such times and at such rate as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution

of the Commonwealth. All payments on account of principal on such notes shall be repaid from the Government Land Bank Fund; provided, however, that notwithstanding any provision of this chapter, such notes shall be general obligations of the commonwealth.

Section 25. To provide for the acquisition, holding, protection, maintenance or use of lands as provided by clause (29) of section 3, to provide for making loans, loan guarantees and grants provided by this chapter, to provide for personnel and administrative costs of the Agency, to provide for costs related to the Devens project, so-called, created by chapter 498 of the acts of 1993 and to refinance notes issued as provided in this chapter, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount not to exceed, in the aggregate, the sum of \$170,000,000; provided, however, that \$120,000,000 thereof shall be expended exclusively for costs related to said Devens project; and provided further, that not more than \$15,000,000 may be expended for renovations to existing facilities within the Devens reserve force training area and at Westover Air Force Base for the use of marine and naval reserve units formerly assigned to South Weymouth naval air station.

All bonds issued by the commonwealth as aforesaid shall be designated on their face, Government Land Bank Fund Loan Act, and shall be term or serial bonds, shall bear such date or dates, and shall mature at such time or times not exceeding 30 years, from the date of issue, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, the maturities thereof to be so arranged that the amounts payable in the several years of the period of amortization, other than the final year, shall be as nearly equal as in the opinion of the state treasurer it is practicable to make them. Said bonds shall bear interest semi-annually at such rate as the state treasurer, with the approval of the governor, shall fix.

All interest payments and payments on account of principal on such bonds shall be payable from the Government Land Bank Fund to the extent of the monies therein, provided, however, that notwithstanding any provision of this chapter, such bonds and the interest thereon shall be general obligations of the commonwealth.

Section 26. The state treasurer acting on behalf of the commonwealth shall enter into an agreement with the Agency providing that the commonwealth shall provide contract assistance for debt service obligations of the Agency derived from its predecessor, the government land bank, in the maximum amount of \$6,000,000 per fiscal year of the commonwealth for a period of 12 such fiscal years; provided, however, that notwithstanding the foregoing, such agreement shall also provide that the commonwealth shall provide contract assistance necessary to defray debt service costs associated with up to \$80,000,000 in principal amount of debt obligations of the Agency derived from its predecessor, the government land bank, issued pursuant to law for the purposes of the Devens project, so-called, created by chapter 498 of the acts of 1993. Such contract assistance agreement shall provide for the payment by the commonwealth of the debt service obligations of the Agency at such time during each such fiscal year and upon such terms and under such conditions as the Agency may stipulate. The Agency may pledge such agreement and the

rights of the Agency to receive amounts thereunder as security for the payment of debt obligations issued by the Agency. Such agreement shall constitute a general obligation of the commonwealth for which the faith and credit of the commonwealth shall be pledged for the benefit of the Agency and of the holders of any debt obligations of the Agency which may be secured by a pledge of such agreement or of amounts to be received by the Agency under such agreement.

Amounts received by the Agency from debt obligations issued pursuant to this chapter shall be used for the purposes of acquisition, holding, protection, maintenance, repair, stabilization, operation, management, development, redevelopment, improvement and use of lands, for making grants and undertaking financing transactions, for the acquisition of stock, options or warrants, for refunding other such debt obligations, or for provision of personnel and administrative costs of the Agency as provided by this chapter.

Section 27. (a) There is hereby created and placed within the Agency the Emerging Technology Fund, referred to in this section as the Fund, to which shall be credited any appropriations, bond proceeds or other monies authorized by the general court and specifically designated to be credited thereto, such additional funds as are subject to the direction and control of the Agency, any pension funds, federal grants or loans or private investment capital which may properly be applied in furtherance of the objectives of the Fund, any proceeds from the sale of qualified investments secured or held by the Fund, any fees and charges imposed relative to the making of qualified investments, as the same shall be defined by the advisory committee created pursuant to section 8D and pursuant to the rules and regulations adopted by the Agency, secured or held by the Fund, and any other monies which may be available to the Agency for the purposes of the Fund from any other source or sources. The Agency shall hold the Fund in an account or accounts separate from other funds or accounts.

(b) The Agency shall invest and reinvest the Fund and the income thereof, except as hereinafter provided, only as follows:

(1) in the making of qualified investments, pursuant to the rules and regulations adopted by the Agency;

(2) in defraying the ordinary and necessary expenses of administration and operation associated with the Fund;

(3) in the investment of any funds not required for immediate disbursement in the purchase of such securities as may be lawful investments for fiduciaries in the commonwealth;

(4) for the payment of binding obligations associated with such qualified investments which are secured by the Fund as the same become payable; and

(5) for the payment of principal or interest on qualified investments secured by the Fund or the payment of any redemption premium required to be paid when such qualified, investments are redeemed prior to maturity; provided, however, that monies in the Fund shall not be withdrawn at any time in such an amount as would reduce the amount of the Fund to less than the minimum requirement thereof established by the Agency, except for the purpose

of paying binding obligations associated with qualified investments which are secured by the Fund as the same become payable.

(c) The Fund shall be held and applied by the Agency to make qualified investments designed to advance the following public purposes:

(1) to stimulate increased financing for new manufacturing, research and development and related facilities in the commonwealth by leveraging private financing for highly, productive state-of-the-art facilities, which will lead to increased and more rewarding employment opportunities for the citizens hereof; and

(2) to make matching grants to universities and public instrumentalities to induce the federal government and industry to fund advanced research and development activities in new and emerging technologies and new application of existing technologies in the commonwealth, and to thereby serve to increase and strengthen the commercial and industrial base of the commonwealth and the economic development and employment opportunities related thereto.

The Agency shall make no such qualified investment pursuant to clause (1) of subsection (b) unless the Agency finds that, to the extent possible, said qualified investment is such that a definite benefit to the economy of the commonwealth may reasonably be expected therefrom. In addition, the Agency shall make no such qualified investment pursuant to said clause (1) of said subsection (b) unless such qualified investment is in conformity with rules and regulations promulgated by the Agency.

Said rules and regulations shall prescribe the terms and conditions attaching to investments which are to constitute qualified investments, which may include, without limitation, loans, guarantees, loan insurance or reinsurance, equity investments, grants made only pursuant to clause (2) of subsection (c); or other financing or credit enhancing devices, as made by the Agency directly or on its own behalf or in conjunction with other public instrumentalities, or private institutions, or the federal government, provided further, that said rules and regulations shall provide that each such qualified investment made pursuant to clause (1) of said subsection (c) shall involve a transaction with the participation of at least two at-risk private parties.

Said rules and regulations shall, in addition, set forth the terms, procedures, standards and conditions which the Agency shall employ to identify qualified applications, process applications, make investment determinations, safeguard the Fund, advance the objective of increasing employment opportunities for the citizens of the commonwealth, oversee the progress of qualified investments, and secure the participation of other public instrumentalities, private institutions, or the federal government in such qualified investments; provided, however, that said rules and regulations shall provide that each recipient of a qualified investment shall be required to pay a fee as a condition of such receipt, which fee may take the form of points, an interest rate premium or a contribution of warrants or other form of equity to the Fund as prescribed by said advisory committee; and provided, further, that said rules and regulations shall provide for negotiated agreements between the Agency and each recipient of a qualified investment regarding the terms and conditions by which the Fund's

support thereof could be reduced or withdrawn.

(d) The Agency may solicit investments by private institutions or investors in the activities of the Fund and may reach agreements with such private institutions or investors regarding the terms of any such investments including, without limitation, the rights of such investors to participate in the income or appropriation of the Fund. In furtherance of the objective of securing investments by private institutions or investors in the activities of the Fund as set forth in the preceding sentence, the Agency shall, on or before the date one year after the first qualified investment is approved by the Agency, submit to the secretary of economic affairs a detailed proposal relative to the creation of a separate investment entity which allows for the commingling of the resources of the Fund with the maximum participation by such private institutions or investors in a manner which is consistent with the public purpose of the Fund and under terms and conditions calculated to protect and preserve the assets of the Fund; provided, however, that if the creation or operation of such a separate entity as proposed by the Agency would require additional or clarifying amendments to the enabling act of the Agency, said proposal shall include proposed statutory language with regard thereto.

(e) Copies of the approved rules and regulations, and any modifications thereto, shall be submitted to the chairpersons of the house and senate committees on ways and means and the clerks of the house of representatives and senate.

(f) Qualified investment transactions undertaken by the Agency pursuant to the provisions of this section shall not, except as specified in this chapter, be subject to the provisions of chapter 175, or any successor thereto, and shall be payable solely from the Emerging Technology Fund established by this section and shall not constitute a debt or pledge of the faith and credit of the commonwealth or of any subdivision thereof.

(g) The Agency shall not at any time make expenditure from or commitment of the assets of the Fund, including, without limitation, the making of qualified investments secured by the Fund, if following the making of said qualified investment, the amount of the Fund shall be less than the minimum requirement established by law, unless the Agency, at the time of making of such qualified investment, deposits in the Fund from the proceeds thereof or from any fees and charges imposed relative to the making of qualified investments, or otherwise, an amount which, together with the amount in the Fund, shall not be less than the minimum requirement; provided, however, that at no time shall the minimum requirement of the Fund be less than the greater of (i) the maximum amount of principal and interest becoming due in the current and succeeding fiscal year of the Agency on all outstanding bonds and other obligations which are secured by the Fund or (ii) 30 per cent of the aggregate amount of the Fund's outstanding liabilities and obligations under the qualified investments.

(h) In order to assure the maintenance of the Fund at the minimum requirement established by the advisory committee, the governor shall annually request of the general court that there shall annually be appropriated and paid to the Agency for deposit in the Fund such sum, if any, as shall be certified by the chairman of the advisory committee to the governor as necessary to restore or maintain the Fund at such minimum amount provided, that the maximum amount of such appropriations should not exceed \$45,000,000.

The Agency shall annually, on or before October 30, make and deliver to the secretary for administration and finance his certificate stating the amount, if any, required to restore or maintain the Fund at the amount aforesaid and an appropriation for the amount so stated, if any, shall be requested of the general court by the governor to be paid to the Agency during the then current fiscal year of the commonwealth.

Said secretary acting on behalf of the commonwealth shall enter into an agreement with the Agency memorializing the foregoing commitment by providing that the commonwealth shall provide contract assistance to the Fund as aforesaid in the maximum aggregate amount of \$45,000,000. The Agency may pledge such agreement and the rights of the Agency to receive amounts thereunder as security for the payment of obligations of the Funds. Such agreement shall contain such provisions as are necessary to ensure that such agreement does not constitute a general obligation of the commonwealth for which the faith and credit of the commonwealth may be pledged.

Section 28. (a) There is hereby created an advisory committee relative to the Fund consisting of the director of economic development and the secretary for administration and finance, and three other persons, one to be appointed by the governor and two to be appointed by the board of the Agency; provided, however, that said secretary of economic affairs and said secretary for administration and finance may designate another person from time to time to act in his place for a particular purpose, including the right to attend and vote at a meeting of the advisory committee; provided, however, that at least one member of the advisory committee shall have knowledge of financing of emerging technology companies, and one member shall have advanced scientific knowledge related to an emerging technology or technologies.

Each appointed member of the advisory committee shall serve for a term of three years and thereafter until such member's successor is appointed; provided, however, that of those initially appointed, one shall serve for a term of one year, one shall serve for a term of two years, and one shall serve for a term of three years. Any person appointed to fill a vacancy on the advisory committee shall be appointed in a like manner and shall be eligible for reappointment. Any member of the advisory committee appointed by the governor may be removed by the governor for cause. Any member of the advisory committee appointed by the board of the Agency may be removed by the board for cause. The advisory committee is encouraged to award, with the consent of the Agency, one or more contracts with regard to the management of the Fund, which may provide performance-based incentives with regard to such management.

(b) The members shall elect annually a chairman and vice chairman and shall adopt by-laws governing the affairs of the advisory committee. Three members of the advisory committee shall constitute a quorum and the affirmative vote of a majority of the members present and eligible to vote at a meeting shall be necessary for any action to be taken by the advisory committee; provided, however, that the written approval of the secretary for administration and finance shall be necessary for any expenditure from or commitment of the assets of the Fund; and, provided further, that except as set forth in the preceding clause,

no vacancy in the membership of the advisory committee shall impair the right of a quorum to exercise the powers of the advisory committee.

The members shall serve without compensation, but each member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties. The advisory committee shall meet at least twelve times in each year and shall have final authority over the activities of the Fund. The Agency shall provide such staff and supporting assistance as deemed appropriate by the board of directors of the Agency to enable the advisory committee to discharge its duties in a manner consistent with its public purpose. The provisions of subsections (d), (f) to (i), inclusive, and (1) of section 31 of chapter 23A shall apply as well to the members and affairs of the advisory committee created pursuant to this section.

Section 29. The Agency may provide by resolution for the issuance from time to time of debt obligations of the Agency for any of its corporate purposes, provided, however, that the Agency shall issue debt obligations under this section the principal amount of which, when added to the principal amount of debt obligations issued by the Agency under this section and then outstanding, excluding debt obligations previously refunded or being or to be refunded thereby, shall not exceed \$250,000,000, \$200,000,000 of which shall be for the exclusive use of the Devens project, so-called. All such debt obligations shall be negotiable for all purposes without regard to any other law, subject only to the provisions of any such debt obligations for registration. Debt obligations issued hereunder may be secured by the full faith and credit of the Agency, by a pledge of any revenues, receipts or other assets or funds of the Agency, by mortgages or other instruments covering all or any part of any and all real property of the Agency, including any additions, improvements, extensions to or enlargements of any real property thereafter made, or by any one or more of the foregoing, all as may be determined by the Agency. Debt obligations may be dated, may bear interest at such rate or rates, including rates variable from time to time, may be payable in any domestic or foreign currency and at any domestic or foreign location and may mature or otherwise be payable at such time or times as may be provided for by the Agency, and may be made redeemable or determinable prior to maturity at the option of the Agency or the holder thereof at such price or prices and under such terms and conditions as may be fixed by the Agency. The Agency shall determine the form of debt obligations and the manner of execution, denomination or denominations and place or places of payment thereof. In case any officer whose signature or a facsimile of whose signature shall appear on any debt obligations shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office until after such delivery. The Agency may provide for the authentication of debt obligations by a trustee, fiscal agent, registrar or transfer agent. The Agency may by resolution delegate to the executive director or any member or members of the board of directors of the Agency, or any combination of them, the power to determine any of the matters set forth in this section. In the discretion of the Agency, debt obligations of the Agency may be issued with such terms as will cause the interest thereon to be subject to federal in-

come taxation. The Agency may sell its debt obligations in such manner, either at public or private sale, for such price, at such rate or rates of interest, or at discount in lieu of interest, as it determines will best effectuate its corporate purposes. In the discretion of the Agency, any debt obligations issued hereunder may be secured by a resolution of the Agency or by a trust agreement between the Agency and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the commonwealth, and any such trust agreement shall be in such form and executed in such manner as may be determined by the Agency. Such trust agreement or resolution may pledge or assign, in whole or in part, any revenues and funds held or to be received, and any mortgages or other loan collateral held or to be acquired, by the Agency and any contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the Agency, and the proceeds thereof.

Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights, security and remedies of holders of debt obligations as may be reasonable and proper, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof which may include the acceleration of maturities, restrictions on individual right of action by holders of debt obligations and covenants setting forth duties of and limitations on the Agency in relation to the conduct of its programs and the management of its property, the custody, safeguarding, investment and application of moneys, the issuance of additional or refunding debt obligations, the establishment of reserves and the making and amending of contracts. In addition to other security provided herein or otherwise by law, debt obligations issued by the Agency may be secured, in whole or in part, by financial guaranties, by insurance or by letters of credit issued to the Agency, or a trustee, or any other person by any bank, trust company, insurance or surety company or other financial institution, within or without the commonwealth, and the Agency may pledge or assign, in whole or in part, any revenues and funds held or to be received, and any mortgages or other loan collateral held or to be acquired, by the Agency and any contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the Agency, and the proceeds thereof, as security for such guaranties or insurance or for the reimbursement by the Agency to the issuer of any such letter of credit of any payments made under such letter of credit. It shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of debt obligations, revenues or other moneys under any such trust agreement or resolution and to furnish such indemnification or to pledge such securities and issue such letters of credit as may be required by the Agency. Any such trust agreement or resolution may set forth the rights and remedies of holders of debt obligations and of the trustee and may restrict the individual right of action by holders of debt obligations. Any pledge of revenues or other property made by the Agency under the provisions of this chapter, including, without limitation, any pledge by the Agency of its rights to receive payments of any kind from or for the account of mortgagors under mortgages, participations therein or subsidy, guaranty, insurance or other contracts relating

thereto, and of its revenues and other property, and of the mortgages, notes, such participations, such subsidy, guaranty, insurance or other contracts or other collateral, and of the proceeds of any or all thereof, shall be valid and binding and shall be deemed continuously perfected for the purposes of the Uniform Commercial Code and other laws from the time when such pledge is made. The revenues, moneys, property, rights and proceeds so pledged and then held or thereafter acquired or received by the Agency shall immediately be subject to the lien of such pledge without any physical delivery or segregation thereof or further act, and the lien of any such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the Agency, regardless of whether such parties have notice thereof. Neither the resolution, any trust agreement nor any other agreement by which a pledge is created need be filed or recorded except in the records of the Agency, and no filing need be made under the Uniform Commercial Code or any other law. Any holder of a debt obligation issued by the Agency under the provisions of this chapter and any trustee under a trust agreement or resolution securing the same, except to the extent the rights herein given may be restricted by such trust agreement or resolution, may bring suit upon the debt obligations and may, either at law or in equity, by suit, action, mandamus or other proceeding for legal or equitable relief, including proceedings for the appointment of a receiver to take possession and control of the business and properties of the Agency, to operate and maintain the same, to make any necessary repair, renewals and replacements in respect thereof and to fix, revise and collect fees and charges, protect and enforce any and all rights under the laws of the commonwealth or granted hereunder or under such trust agreement, resolution or other agreement and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by the Agency or by any officer thereof. Debt obligations issued by the Agency under this chapter are hereby made securities in which all public officers and public bodies of the commonwealth and its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such debt obligations are hereby made securities which may properly and legally be deposited with and received by any commonwealth or municipal officer or any agency or political subdivision of the commonwealth for any purpose for which the deposit of bonds or obligations of the commonwealth is now or may hereafter be authorized by law. Debt obligations issued by the Agency under the provisions of this chapter shall not be deemed to be a debt or a pledge of the faith and credit of the commonwealth, except to the extent provided pursuant to the provisions of this chapter, but, except as aforesaid, shall be payable solely from the funds of the Agency from which they are made payable pursuant to the provisions of this chapter. All debt obligations issued by the Agency under the provisions of this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the commonwealth and by the cities, towns and other political subdivisions in the commonwealth.

The provisions of this section shall not apply to any debt obligations, bonds, notes or loans issued by the Massachusetts Industrial Finance Agency, nor to any bonds or debt obligations of the Massachusetts Development Finance Agency issued pursuant to section 8, nor in any way limit, derogate or diminish the powers of said Massachusetts Development Finance Agency.

Section 30. The Agency shall keep accurate accounts of all receipts and expenditures of the Government Land Bank Fund; and shall make a report annually containing an abstract of such accounts and detailed information on all receipts and expenditures, including prices paid for lands purchased, the terms upon which loans, loan guarantee and grants were made, and such other detailed information as provided in section 14. Except as otherwise provided by this chapter, the Agency shall have full power to exercise care of its property and management of its loans, loan guarantees, grants, business and affairs, and to sell and convey any lands as provided by this chapter, by deed or other instrument sealed with its corporate seal, signed and acknowledged by a majority of the board of directors of in like manner to authorize such sale and conveyance by any of its officers or agents.

Section 31. Rents and charges for services or facilities furnished or supplied by the Agency shall not be subject to supervision or regulation by any department, division, commission, board, bureau or Agency of the commonwealth or any political subdivision thereof.

Section 32. Except to the extent otherwise provided at law including, without limitation, section 12 of chapter 498 of the acts of 1993, the Agency shall be liable in contract or in tort in the same manner as a private corporation. The directors, employees, officers and agents of the Agency shall not be liable as such on its contracts or for torts not committed or directly authorized by them. The property or funds of the Agency shall not be subject to attachment or to levy and sale on execution, but if the Agency refuses to pay a judgment entered against it in any court of competent jurisdiction, the superior court, sitting within and for the county in which the Agency is situated, may direct the treasurer of the Agency to pay such judgment. The lands of the Agency shall not be subject to liens under chapter 254.

Section 33. The lands and tangible personal property of the Agency shall be deemed to be public property used for essential public and governmental purposes and shall be exempt from taxation and from betterments and special assessments.

Nothing in this chapter shall be construed to prevent the taxation to the same extent and in the same manner as other lands are taxed, of lands acquired by the Agency and sold by it, or of lands so acquired by the Agency and leased by it; provided, however, that lands so acquired by the Agency and sold or leased to an urban redevelopment corporation or other entity operating under chapter 121A, or the economic development and industrial corporation of Boston, or such other corporation as may be established by special law for, or other entity operating under said chapter 121A and authorized by special law with respect to the redevelopment of lands formerly used for Westover Air Force Base, the Chelsea Naval Hospital, or the Boston Naval Shipyard, including the South Boston Annex, the Boston Army Base and all other lands owned by the United States of America and used in connection with or for

purposes related to the operations of the Boston Naval Shipyard or the Boston Army Base, shall be taxed as provided in such chapter or special law and not otherwise.

Section 34. The Agency shall annually submit to the governor, the chairman of the senate ways and means committee, the chairman of the house ways and means committee, the secretary of administration and finance, and the comptroller within 90 days after the end of its fiscal year a complete and detailed report setting forth its operations and accomplishments; its receipts and expenditures during such fiscal year; and, its assets and liabilities at the end of its fiscal year.

Section 35. As used in this section the words "building project" shall mean a project undertaken for the design, construction, installation, repair or maintenance of building and appurtenant structures, facilities and utilities directly by the Agency in the exercise of its powers under clauses (23) and (26) to (29), inclusive of section 3, but not in the exercise of any of its other powers, including initial equipment and furnishings thereof, but not including appurtenant buildings or structures which are required to be constructed as integral parts of the development of sewer, water and highway systems, or the design, construction, installation, repair or maintenance of any building financed in whole or in part through loans or through the purchase and sale of such building by the Agency pursuant to this chapter.

The Agency shall not enter into any contract nor incur any other obligation for the design of a building project unless the design work can be accomplished (a) within any applicable appropriation or authorization for the project or within the project cost limits specified by any applicable appropriation or authorization and (b) without substantial deviation from any (i) study or program which must be prepared in accordance with this section or (ii) any other pre-design document which must be prepared in accordance with any other statute, appropriation or authorization or administrative directive consistent therewith, and unless the executive director of the Agency certifies in writing that such project complies with the provisions of this section. In no event shall the design work be such as would result in a change in the number of square feet to be constructed in the project of more than ten per cent from the number specified in the study, program or other pre-design document referred to in subclauses (i) and (ii) of clause (b).

The Agency shall not enter into any contract nor incur any other obligation for the construction of a building project unless the construction work can be accomplished (a) within any applicable appropriation or authorization for the project and (b) without substantial deviation from (i) any study or program which must be prepared in accordance with this section or (ii) any other pre-design document which must be prepared in accordance with any other statute, appropriation or authorization or administrative directive consistent therewith and unless the executive director of the Agency certifies in writing that such project complies with the provisions of this section. In no event shall the construction work be such as would result in a change in the number of square feet to be constructed in the project of more than 10 per cent from the number specified in the study, program or other pre-design document referred to in subclauses (i) and (ii).

Every building project undertaken by the Agency shall be deemed to require the

satisfactory completion of a study or program as provided herein before any services for the design or construction of such project may be contracted for, performed by contract or otherwise, or funds allotted, encumbered or expended therefor.

No provider of design services for any building project undertaken by the Agency shall be selected by the designer selection board or by the Agency and no design services shall be performed for or by the Agency for any building project for which the satisfactory completion of a study or program is required prior to the design or construction of that project, unless and until: (a) said study, program, or where appropriate, both have been satisfactorily completed; (b) the Agency certifies in writing to the deputy commissioner of capital planning and operations that the study, program, or where appropriate, both, correspond to the current needs of the Agency including its current long term capital facilities development plan; (c) said deputy commissioner requests that one or more of the directors of the office of programming, office of project management, or office of facilities management review the study or program, or where appropriate, both and the director or directors certify in writing to said deputy commissioner that the study, program, or where appropriate, both reflect the Agency's needs as stated, that they provide an accurate estimate of the project requirements, cost and schedule, that the project can be accomplished within any applicable appropriation or authorization for that project, and recommends proceeding with design, construction, or where appropriate, both; and (d) the deputy commissioner of capital planning and operations certifies in writing to the commissioner of administration that the study, program, or where appropriate, both have been satisfactorily completed in accordance with this section and approves proceeding with design, construction, or where appropriate, both.

If either the director or directors whose review is requested or the deputy commissioner of capital planning and operations should fail to so certify, recommend, or approve, said deputy commissioner shall forthwith send notice of his decision and the reasons therefor to the commissioner of administration and to the house and senate committees on ways and means.

Section 36. Upon termination of the Agency's existence, title to all lands or any interest therein, which immediately prior to said termination, is held by the Agency, and all mortgage and other titles, liens upon and security interests therein so held by the Agency in or upon lands or interests therein theretofore disposed of by the Agency, shall be, without further action be transferred to and shall be vested in the commonwealth and shall be under the control of the executive office for administration and finance. The secretary of administration and finance is hereby authorized to hold, protect, maintain, and use such lands, or any interest therein, as he deems necessary or desirable to facilitate disposition of such lands or any interest therein, and to dispose of such lands, or any interest therein, by sale, lease or otherwise. The proceeds of any disposition of such lands, or any interest therein, shall be paid into the treasury of the commonwealth and shall be used solely toward meeting the debt service obligations of the General Fund.

Section 37. Upon the termination of the Agency's existence, all monies credited to

the Government Land Bank Fund shall, after payments, other than the interest on or the principal of any bonds and notes issued pursuant to this chapter, due on account of the Agency shall have been made, revert to the treasury of the commonwealth and shall be used solely toward meeting the debt service obligations of the General Fund.

Section 38. Upon the termination of the Agency's existence, all books, papers, records, documents, and equipment, which immediately prior to said termination, are in the custody of the Agency, and which relate to or are maintained for the purpose of the exercise of the Agency's powers or the performance of the Agency's duties and all assets of the Agency of every kind and nature, shall be transferred without further action to the secretary of administration and finance.

Section 39. Upon the termination of the Agency's existence, all then existing agreements, contracts, leases and other obligations of the Agency or to which the Agency is a party which relate to the exercise of its powers or the performance of its duties and which are in force immediately prior to said termination, shall be performed, and may be enforced for the benefit of the commonwealth, by the secretary of administration and finance. This section shall not affect any renewal provision or option to renew contained to any such lease in existence on said termination date, all of which may thereafter be exercised by said secretary.

Section 40. Upon the termination of the Agency's existence, all petitions, hearings and other proceedings duly brought before, and all prosecutions and legal and other proceedings duly begun by the Agency which arise from or relate to the exercise of its powers or the performance of its duties, and which are pending immediately prior to said termination, shall continue unabated and remain in force notwithstanding said termination, and shall thereafter be completed before or by the secretary of administration and finance.

Section 41. There is hereby established the Incubator Program Fund which shall be under the control of the Agency, but shall consist of a separate account or accounts segregated from other Agency funds, to which shall be credited any appropriations made to said Fund, together with such other amounts as may become available from any other source. The Agency may from time to time withdraw from said amounts as may be necessary to defray costs and expenses incurred by the Agency in connection with any project undertaken by the Agency pursuant to this chapter.

SECTION 25. Sections 29 to 38C of chapter 23A of the General Laws are hereby repealed.

SECTION 26. Chapter 212 of the acts of 1975 is hereby repealed.

SECTION 27. (a) Notwithstanding the provisions of any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal obligations of the following functions of state government from the transferor Agency to the transferee Agency, as hereby defined:

(1) The functions of the Massachusetts Industrial Finance Agency, as the transferor Agency, to the Massachusetts Development Finance Agency, as the transferee Agency.

(2) The functions of the Massachusetts government land bank, as the transferor

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Agency, to the Massachusetts Development Finance Agency, as the transferee Agency.

Upon the effective date of this act all employees and officers of the Massachusetts government land bank and the Massachusetts Industrial Finance Agency shall be deemed employees and officers of the agency.

(b) Only those officers, agents and employees of the Massachusetts government land bank participating in the commonwealth's retirement system prior to the effective date of this act may remain as employees of the Agency, at their option, and firefighters employed by said land bank on the effective date of this act or by the Agency thereafter pursuant to subsection (c) of section 12 of chapter 498 of the acts of 1993 shall remain as participants in the commonwealth's retirement system pursuant to the terms and conditions of said participation. Except for said firefighters, officers, agents or employees of said Massachusetts government land bank and of the Massachusetts Industrial Finance Agency not participating in the commonwealth's retirement system prior to the effective date of this act shall not be afforded the option to become participants in said retirement system as officers, agents or employees.

(c) All employees and officers of the Agency may be eligible for health benefits through the commonwealth's group insurance commission pursuant to the terms and conditions of such coverage. Any employee of Massachusetts government land bank eligible for any specific state-sponsored health or insurance program shall, upon becoming an employee of the agency pursuant to subsection (b), continue to be eligible for said programs on the same terms and conditions as were in effect immediately prior to the effective date of this act.

(d) All petitions, requests, investigations and other proceedings appropriately and duly brought before each transferor agency or duly begun by each transferor agency and pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the respective transferee agency.

(e) All orders, rules and regulations duly made and all approvals duly granted by each transferor agency, which are in force immediately before the effective date of this act, shall continue in force and the provisions thereof shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the transferee agency.

(f) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of each transferor agency shall be transferred to the transferee agency. All duly existing contracts, leases and obligations of each transferor agency shall continue in effect but shall be assumed by the respective transferee agency.

(g) All powers, duties and obligations of the transferor agencies under the commonwealth's laws and regulations remaining in effect after the effective date of this act, including without limitation, the powers, duties and obligations set forth in chapter 498 of the acts of 1993, and any other law or regulation referring to either transferor agency, shall become powers, duties and obligations of the transferee agency.

No existing right or remedy of any character shall be lost, impaired or affected by the provisions of this act.

All references in any general or special law to each transferor agency or the principal officer thereof shall be deemed to refer to the respective transferee agency or the principal officer thereof.

SECTION 28. This act, being necessary for the welfare of the commonwealth and its inhabitants, shall be liberally construed to effect its intents and purposes.

SECTION 29. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

SECTION 30. The division of capital planning and operations is hereby authorized and directed to study the cost effectiveness of the administrative office of the trial court entering into competitively selected contracts for the property management of all court facilities, including but not limited to, substantially renovated or newly constructed trial court facilities. Said study shall compare the current system of property management of said trial court facilities with systems of selected contracts for property management in effect for other agencies of the commonwealth as well as other systems of property management that are in effect in other states. The commissioner of said division shall file said study with the clerks of the house of representatives and senate, the house and senate committees on ways and means, and the joint committee of the judiciary by May 30, 1998.

SECTION 31. The secretary of administration and finance shall file a report no later than March 1, 1999 with the house and senate committees on ways and means detailing those expenditures from items in section 2A which will not be fully expended by the end of the accounts payable period in fiscal year 1999 and for which said secretary recommends an extension of funding into the subsequent fiscal year; provided, however, that said report shall list those amounts that have been expended or obligated as of said date.

SECTION 32. The department of environmental protection, in consultation with the executive office of administration and finance, the Water Pollution Abatement Trust, and the department of housing and community development, is hereby directed to conduct a study of potential financial assistance programs, including but not limited to a Title V betterment program, relating to the costs of bringing sewage disposal systems serving manufactured housing communities into compliance with 310 CMR 15.00. Said report shall be submitted to the house and senate committees on ways and means not later than October 31, 1998.

SECTION 33. Sections 23 to 29, inclusive, of this act shall take effect on September 30, 1998. The remainder of this act shall take effect on June 30, 1998.

This bill was returned on August 10, 1998, by the Acting Governor-Lieutenant Governor to the House of Representatives, the branch in which said bill was originated, with his objections in writing to the following items therein:

Items Disapproved:

SECTION 2 0521-1982, 1102-1981, 1102-1982, 1102-7997, 1232-5995, 1599-1986, 1599-1987, 2000-1983, 2000-7997, 2000-8998, 2040-1981, 2120-7997, 2200-1982, 2200-6996, 2200-7997, 2200-8998, 2260-5995, 2320-6996, 2440-1982, 2495-7997, 2495-8998, 2511-6996, 2511-8998, 4000-8998, 6037-8998, 7004-8975, 7004-8976, 7004-8977, 7052-8998, 7114-8998, 8000-1981, 8100-1981, 8900-1982.

SECTIONS 8, 9, 13, 14, 15, 16, 20, 21, 30, and 32

SECTION 2 *Items reduced in amount*

Item	Reduce by	Reduce to
1790-1983	3,200,000	11,000,000
2000-7998	200,000	300,000
2100-3012	1,000,000	500,000
2120-6996	750,000	250,000
2260-6996	500,000	250,000
4400-8998	684,500	500,000
6037-0010	7,000,000	93,000,000
7000-1981	1,000,000	500,000
7000-7997	8,000,000	2,000,000
7000-8998	12,141,552	11,406,448
7061-7997	1,000,000	5,500,000
7066-0115	3,000,000	8,000,000
7310-8998	11,000,000	1,000,000
8900-1981	100,000	850,000

SECTION 2 *Items reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	Wording Stricken
0526-8998	6,480,000	520,000	“; provided further, that \$100,000 shall be expended from this item for the Brook Estate Restoration project in the city of Medford; provided further, that \$500,000 shall be expended for repairs and improvements to Stetson Hall in the town of Randolph; provided further, that \$150,000 shall be expended for the purposes of the Quinebaug and Shetucket Rivers Valley Heritage District project, so-called; provided further, that \$150,000 shall be expended for the additional expenses of the Framingham Hollis Street Fire Station Project, so-called; provided,

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Item	Reduce by	Reduce to	Wording Stricken
			however, that said \$150,000 shall be in addition to funds previously appropriated for the purposes of said project”
			and
			“; provided further, that \$100,000 shall be expended for the Tenney Park Land Restoration Project, so-called; and provided further, that expenditures made for all of the projects explicitly referenced in this item shall be made notwithstanding the provisions of any general or special law or rule or regulation to the contrary”
			and
			“; and provided further, that \$40,000 shall be made available for restoration of the Saugus town hall mural located in the town of Saugus”
0640-8998	40,000	25,000	“; provided further, that \$40,000 shall be expended for heating and cooling systems the Shea Theater in the town of Montague”
1599-1985	5,200,000	19,995	“; however, that not more than \$3,700,000 shall be expended for site remediation at the Belchertown state school; provided, further, that not more than \$1,500,000 shall be expended for the removal of asbestos at the University of Massachusetts Amherst; and provided further”
2120-8998	4,830,950	3,200,000	“; provided, that \$500,000 shall be expended for the acquisition of a weed harvester for use by the city of Springfield, the town of East Longmeadow and the Wilbraham parks department for use in the ponds, lakes and other waterways in the greater Springfield area; provided further, that \$775,000 shall be expended for repairs and improvements at Blunt park in the city of Springfield; provided further, that \$115,000 shall be expended for repairs to the Senator P. Eugene Casey memorial pool in the town of Milford;

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Item	Reduce by	Reduce to	Wording Stricken
			provided further, that \$150,000 shall be expended for repairs and improvements to the Ames Nowell state park in the town of Abington; provided further, that \$100,000 shall be expended for repairs and improvements to Sunset lake park in the town of Braintree; provided, however, that expenditure of said \$100,000 shall be subject to a funding match from said town of Braintree; provided further, that \$179,450 shall be expended for repairs and improvements to the Olmstead park in the town of Wareham; provided further, that \$250,000 shall be expended for the construction of certain facilities on the visitor's picnic beach, so-called, at Clarksburg State Forest; provided further, that funds shall be expended from this item for a study of the feasibility of restoring the Jug end pond in the Jug end state reservation in the town of Egremont to a viable swimming pond; provided further, that \$1,200,000 shall be expended for repairs, improvements, and the restoration of the Walter Baker Administration Building, so-called, in the Dorchester section of the city of Boston; provided further, that \$185,000 shall be expended for the purchase of a brush breaker, so-called, to be housed in the town of Carver and utilized for the department of environmental management's forests and parks in the vicinity of said town; provided further, that not less than \$150,000 shall be expended for the repair and renovation of the boathouse at Regatta point in the city of Worcester; provided further, that not less than \$300,000 shall be expended for the repair and renovation of Green Hill park in the city of Worcester; provided further, that not less than \$100,000 shall be granted to the city of Quincy for the purpose of rehabilitation and restoration of a Frederick Law Olmstead-designed park, known as Merrymount park, in said city; provided further, that \$40,000 shall be expended

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Item	Reduce by	Reduce to	Wording Stricken
			for repairs and improvements to the pavilion, so-called, at the Mount Tom state reservation; provided further, that not less than \$175,000 shall be expended for the planning, design, engineering, and construction of a handicap accessible pier, including associated parking and amenities, located at Silver Lake in the town of Wilmington; provided further, that not less than \$50,000 shall be expended for the design and repair of the historic one-room schoolhouse at Moore State Park in the town of Paxton; provided further, that not less than \$150,000 shall be expended for the rehabilitation, repair, and/or upgrading of the athletic field, walking track, and related projects at Quinsigamond State Park in the city of Worcester; provided further, that not less than \$300,000 shall be expended to replace the wading pool in Warren Manning state park”

SECTION 2 *Items reduced in amount and by striking the wording and inserting in place thereof the following:*

Item	Reduce by	Reduce to	Wording Stricken
7004-7997	18,911,000	450,000	“; provided, that \$1,000,000 shall be expended for the Millis memorial school conversion project, so-called; provided further, that \$2,250,000 shall be provided to the town of Amherst for the Amherst community center project; provided further, that \$2,000,000 shall be expended for the Academy of Music, so-called; provided further, that \$2,000,000 shall be expended for the study, design and the renovation and expansion of the Greenleaf community center in the city of Springfield; provided further, that the director of the department of housing and community development shall contract for an amount not to exceed \$30,000 with a community development corporation in the Canton area for a study of the economic development and revitalization of the

Item	Reduce by	Reduce to	Wording Stricken
			Cantor Center business district; provided further, that \$3,000,000 of the amount appropriated herein shall be expended for a grant to the Fitchburg Redevelopment Authority for said Authority's plan for the development of an urban technology mall at the North Street Corridor in the city of Fitchburg; provided further, that \$200,000 shall be expended for the Methuen community center project, so-called; provided further, that \$1,200,000 shall be expended for the conversion of a municipal facility in the town of Swampscott; provided further, that \$1,050,000 shall be expended for the completion of the wood technology center at Mount Wachusett Community College; provided further, that of said \$1,050,000, not less than \$150,000 shall be expended for a demonstration project of the merits of biomass heating systems at the proposed Warwick elementary school in the town of Warwick; provided further, that \$1,850,000 shall be expended for the school pier and adjacent building at the Massachusetts Maritime Academy, including \$450,000 which shall be expended to meet unfunded federal and international mandates on the Standards for Training, Certification, and Watchkeeping (STCW); provided further, that \$600,000 shall be allocated to the city of Leominster for the costs associated with the development of a certain industrial park in said city; provided further, that \$3,000,000 shall be transferred to the University of Massachusetts to fund the one-time start-up costs associated with the alliance of the Center for Marine Science and Technology at the University of Massachusetts at Dartmouth and the Science, Education, and Economic Development Center at the New Bedford Aquarium Site or an appropriate site within the city of New Bedford including, but not limited to costs of office space and laboratories; provided, however, that said \$3,000,000

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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			shall not be transferred or expended until said university submits a spending plan for such funds to the house and senate committees on ways and means; provided further, that \$600,000 shall be expended for improvements to fresh water pumping systems in the towns of Holbrook and Randolph; provided further, that \$250,000 shall be expended for the development of a re-use plan for the New England Log Home site in the town of Great Barrington; provided further, that \$200,000 shall be expended for the mitigation of pollution on the Aztec Industry site, so-called, in the town of North Brookfield; provided further, that \$56,000 shall be expended for a study of the economic rehabilitation of the four corners neighborhood, so-called, in the city of Boston; provided further, that said study shall be submitted to the house and senate committees on ways and means not later than February 3, 1999; provided further, that not less than \$75,000 shall be expended for the outstanding balance owed on the cost of the Mendon water line;"
			<i>Wording Inserted</i>
			";; provided further, that \$450,000 shall be expended for the school pier and adjacent building at the Massachusetts Maritime Academy, including \$450,000 which will be expended to meet unfunded federal and international mandates on the Standards for Training, Certification, and Watchkeeping (STCW)"
7061-8998	5,000,000	5,000,000	<i>Wording Stricken</i>
			";; provided further, that not less than \$2,000,000 shall be expended for the establishment of an on-line database of curriculum resources to be coordinated jointly by said department, WGBH television, the Massachusetts Corporation for

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Item	Reduce by	Reduce to	Wording Stricken
			Educational Telecommunications and the University of Massachusetts”
			<i>Wording Inserted</i>
			“; provided further, that not less than \$1,000,000 shall be expended for the establishment of an on-line database of curriculum resources to be coordinated jointly by said department, WGBH television, the Massachusetts Corporation for Educational Telecommunications and the University of Massachusetts”

SECTION 19 Items reduced in amount and by striking the wording and inserting in place thereof the following:

Item	Reduce by	Reduce to	Wording Stricken
SECTION 19	190,060,702	189,235,491	“The comptroller shall transfer to said fund, effective June 30, 1998, \$272,441,593 from the General Fund and \$106,854,600 from the Highway Fund.”
			<i>Wording Inserted</i>
			“The comptroller shall transfer to said fund, effective June 30, 1998, \$96,235,491 from the General Court and \$93,000,000 from the Highway fund.”

The remainder of the bill was approved by the Lieutenant Governor-Acting Governor August 10, 1998 at five o'clock and twenty-eight minutes, P.M.

Chapter 290. AN ACT FURTHER REGULATING THE POWERS OF THE MASSACHUSETTS STATE COLLEGE BUILDING AUTHORITY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to issue forthwith bonds and notes by the Massachusetts State College Building Authority, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 703 of the acts of 1963 is hereby amended by striking out paragraph (b), as appearing in section 1 of chapter 800 of the acts of 1985, and inserting in place thereof the following paragraph:-

(b) "Trustees", the higher education coordinating council, established by section 4 of chapter 15A of the General Laws, or if such council shall be abolished, such council, board, body or commission succeeding to the principal functions thereof or to which the powers given by said chapter 15A with respect to state colleges shall be given by law.

SECTION 2. Said chapter 703 is hereby further amended by striking out section 3, as appearing in section 5 of said chapter 800, and inserting in place thereof the following section:-

Section 3. Purposes. The Authority is created for the general purposes of aiding and contributing to the performance of the educational and other purposes of the state colleges by providing dormitories, dining commons and other buildings, structures and facilities designed primarily for housing, feeding, medical care, parking, athletics and cultural and extracurricular and other student life activities and services primarily: (i) for the use of one or more state colleges, students, staff and their dependents; (ii) for lease to or use by an organization or association, in any form, of students or others the activities of which are a part of the activities at one or more state colleges and subject to regulation by the trustees; or (iii) for lease to or use by any other entity the activities of which are approved by the trustees as furthering the purposes of one or more of the state colleges, any of the foregoing of which may be located at such places as the trustees may designate and may be provided in collaboration with, and for joint use by, other agencies, boards, commissions or departments and authorities created by the laws of the commonwealth. The Authority shall not initiate any project except upon written request made by authority of the trustees and upon written approval from the commissioner of administration and the chancellor of the system of public higher education. Before the trustees authorize such written request with respect to any project that would cause an increase in the fees required to be paid by students as a condition for enrolling in a state college, the trustees, the board of trustees of the state college for the benefit of which the project is being undertaken and the authority shall review, analyze and take into account monies available to pay the costs of and debt service with respect to such project from sources other than financing provided by the Authority and such fees charged to students in the applicable state college, including without limitation grants, endowments, contributions from alumni, state college foundations and others and charges

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to users of such project. In no event shall monies appropriated to any such state college be used to pay the costs of or debt service for any such project, except as provided in section 18A and except for contract assistance agreements entered into with the commonwealth pursuant to section 10 or unless a specific appropriation has been made therefor.

SECTION 3. Section 7 of said chapter 703 is hereby amended by striking out the first paragraph, as appearing in section 9 of said chapter 800, and inserting in place thereof the following paragraph:-

The Authority may provide by resolution at one time or from time to time for the issue of bonds of the Authority to achieve any of its corporate purposes or for the purpose of refunding outstanding indebtedness of the Authority incurred under this act or incurred under any other similar act or any other authority, including the payment of all or any part of the cost of projects, the payment of interest on notes and bonds of the Authority, the establishment of reserves to secure such bonds and notes, including the reserve funds created pursuant to section 10, and the payment of all other expenditures of the Authority incident to and necessary or convenient to carry out its corporate purposes and powers and any refunding; provided, however, that the Authority shall not issue bonds guaranteed by the commonwealth under said section 10, the principal amount of which, when added to the principal amount of bonds and notes guaranteed by the commonwealth under said section 10 theretofore issued hereunder, excluding bonds and notes guaranteed by the commonwealth under said section 10 previously refunded or being or to be refunded thereby, shall exceed in the aggregate the amount of \$105,000,000; and provided further, that the Authority shall not issue bonds and notes other than those guaranteed by the commonwealth under said section 10, the principal amount of which, when added to the principal amount of bonds and notes other than those guaranteed by the commonwealth under said section 10 theretofore issued and then outstanding hereunder, excluding bonds and notes previously refunded or being or to be refunded thereby, shall exceed in the aggregate the amount of \$500,000,000. The Authority shall not issue notes or bonds for the purpose of refunding bonds theretofore issued and then outstanding hereunder except with the prior written approval of the trustees of such refunding issue, which approval need not be of the interest rate, the maturity or any of the other terms thereof; provided, however, that the Authority shall not issue such notes or bonds until a majority of the members of the Authority shall certify in writing to the secretary of administration and finance: (1) that they have notified all qualified managing underwriters based in the commonwealth of the Authority's intention to issue such notes or bonds; and (2) that such underwriters have been given an equal opportunity to submit proposals.

SECTION 4. Section 16 of said chapter 703 is hereby amended by adding the following paragraph:-

The commonwealth shall indemnify present and past members, officers and employees of the Authority against liabilities, claims, costs and expenses, including legal expenses, in connection with an actual or threatened suit or proceeding, including any settlement thereof approved by the Authority, arising by reason of any act or omission of such person

within the scope of his duties for the Authority; provided, however, that no indemnification shall be provided concerning a matter as to which such person is adjudicated to have acted either without the good faith belief that his conduct was in the best interest of the Authority or with the knowledge that his conduct was unlawful.

SECTION 5. Section 18A of said chapter 703, inserted by section 118 of chapter 653 of the acts of 1989, is hereby amended by inserting before the first paragraph the following paragraph:-

To provide for the expenses of the Authority and for the payment of indebtedness incurred by it in carrying out the provisions of this act, the trustees may, in the name and on behalf of the commonwealth, in connection with any financing or refunding provided by the Authority, or in connection with any transfer to the Authority of buildings or other property under the provisions of section 5, transfer or pledge that they will periodically transfer to the Authority, or any other state college affiliate under terms permitting further transfer or pledge to the Authority: (i) any part or all of any funds held as trust funds for a state college under the provisions of section 14 of chapter 73 of the General Laws; (ii) any part or all of any funds administered on behalf of a state college as gifts, grants or trusts under the provisions of clause (e) of section 22 of chapter 15A of the General Laws; or (iii) in an instance where such funds have been pledged as security for such financing are exhausted in meeting such expenses, any part or all of any funds made available for expenditure on behalf of a state college pursuant to an appropriation made by the general court or otherwise available for expenditure by the trustees. No such appropriation or other spending authorization shall be so transferred except to prevent a default by the Authority for any indebtedness incurred on behalf of a state college making such transfer. Said trustees also may contract with the Authority or any other state college affiliate with respect thereto under terms permitting further transfer or pledge by the Authority to a trustee under any trust agreement entered into by the Authority; provided, however, that in the case of any funds expected to be available for expenditure by the trustees pursuant to subsequent appropriation or other spending authorization by the general court, the trustees may only pledge that they will so transfer such funds subject to such subsequent appropriation or other spending authorization. The trustees may impose such terms and conditions as to the application of the funds so transferred as said trustees deem appropriate for the carrying out of the provisions of this act. Any such pledge shall be valid and binding from the time when the pledge is made, the funds so pledged shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against a state college, the Authority or any other state college affiliate, irrespective of whether such parties have notice thereof. Neither the resolution nor a trust agreement by which such a pledge is created need be filed or recorded except in the records of the Authority.

Approved August 10, 1998.

Chapter 291. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY CERTAIN LAND IN THE TOWN OF HULL.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital planning and operations shall, subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, convey by deed a certain parcel of land located in the town of Hull, presently under the care, custody and control of the metropolitan district commission to said town of Hull to be used for construction purposes, subject to the terms and conditions as the commissioner may prescribe in consultation with the metropolitan district commission. Said parcel is shown on the town of Hull Assessors Map 27, Lots B and 3C.

SECTION 2. The transfer pursuant to section 1 shall be made only if the town of Hull acting by and through its board of selectmen, shall convey certain parcels of land located in said town to the commonwealth for use by the metropolitan district commission. Said parcels are shown on Hull Assessors Map 7, Lots 60 and 62, Map 56, Lots 40 and 42.

SECTION 3. The metropolitan district commission shall issue an appraisal for both the conveyance in section 1 and the conveyance of consideration in section 2. The inspector general shall review and approve said appraisals and said review shall include an examination of the methodology used for said appraisals. Said inspector general shall prepare a report of his review and file said report with the commissioner of the division of capital planning and operations for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration.

SECTION 4. The town of Hull or its designee shall be responsible for expenses relating to the transfer of the parcel of land from the commonwealth to said town of Hull, and for any costs, liabilities and expenses of any nature and kind for the development, maintenance or operation of said parcel. Any further disposition of said parcel of land shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws.

SECTION 5. The commissioner of the division of capital planning and operations shall 30 days before the execution of any agreement authorized by this act, or any subsequent amendment thereof, submit the agreement or amendment and a report thereon to the inspector general for his review and comment. Said inspector general shall issue his review and comment within 15 days of receipt of any agreement or amendment. Said commissioner shall submit the agreement and any subsequent amendments thereof, the reports, and the comments of said inspector general, if any, to the house and senate committees on ways and means and the chairmen on the joint committee on state administration at least 15 days prior to execution.

Approved August 10, 1998.

**Chapter 292. AN ACT AUTHORIZING AN EXCHANGE OF REAL PROPERTY
BETWEEN THE COMMONWEALTH AND THE CITY OF
BROCKTON.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any provision of chapter 7 or chapter 30B of the General Laws, and notwithstanding any provision of any other general or special law governing the disposition or acquisition of real property by the city of Brockton, but subject to this act, the commissioner of the division of capital planning and operations is hereby authorized to acquire from said city for state office use, and the mayor of said city is hereby authorized on behalf of the city to convey to the commonwealth acting by and through said division, all of said city's right, title and interest in the land together with the office building and any other improvements situated thereon, owned by the city and located at 36 Main Street in the city of Brockton, together with any and all easements and appurtenances servicing or related thereto, and, in full consideration therefor, said commissioner is hereby authorized to convey to said city, and the mayor of said city is hereby authorized on behalf of the city to acquire from the commonwealth, all of the commonwealth's right, title and interest in the land and the office building and any other improvements situated thereon, owned by the commonwealth and located at 25 White Avenue in the city of Brockton, together with any and all easements and appurtenances servicing or relating thereto. The value of the city's property equals or exceeds the value of the commonwealth's property on the basis of professional appraisals that already have been performed for the division.

SECTION 2. The inspector general shall review and approve said appraisals and said review shall include an examination of the methodology used for said appraisals. If for any reason the inspector general determines that the appraisals on the two parcels of land are inaccurate and that the state will receive property that does not equal or exceed the value of the property the commonwealth is conveying, then the city shall be required to provide the state with the difference between the appraised value of the two properties. The inspector general shall prepare a report of his review and file said report with the commissioner for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration.

SECTION 3. The city and the commonwealth each shall bear their own expenses in connection with the conveyances authorized by this act.

SECTION 4. This act shall take effect upon its passage.

Approved August 10, 1998.

**Chapter 293. AN ACT RELATIVE TO THE ESTABLISHMENT OF THE CAPE
COD OPEN SPACE LAND ACQUISITION PROGRAM.**

Be it enacted, etc., as follows:

SECTION 1. For the purpose of this act, the following words shall have the follow-

ing meanings:-

"Land Bank Fund", town land bank funds established pursuant to section 5.

"Town open space committee" or "town committee", an agency, board, department, commission or committee appointed, designated or established by the board of selectmen, or in the town of Barnstable by the town council, to carry out the provisions of this act relative to acquiring open space. Nothing herein shall prohibit a town from appointing or designating a local nonprofit land trust or conservation organization as said town committee.

SECTION 2. There is hereby established a Cape Cod Open Space Land Acquisition Program for the purpose of acquiring land and interests in land for the protection of public drinking water supplies, open space, and conservation land, the creation of walking and bicycling trails, and the creation of recreational areas.

SECTION 3. Any real property interest in open space purchased with land bank funds shall be retained in natural, scenic, or open condition and shall be bound by a permanent deed restriction limiting the use of the interest to the purpose for which it was acquired. Said deed restriction shall run with the land and shall be enforceable by the town open space committee. Real property interests may consist of any of the following: (a) land to protect existing and future well fields, aquifers and recharge areas; (b) agricultural lands; (c) forest land; (d) fresh and salt water marshes and other wetlands; (e) ocean and pond frontage, beaches, dunes and other coastal lands; (f) land to protect scenic vistas; (g) land for natural or wildlife preserve; (h) land and easements for trails; and (i) land for recreational use. Notwithstanding the foregoing, towns may make improvements to promote recreation that are not inconsistent with such use.

SECTION 4. The board of selectmen in each town of Barnstable county, and in the town of Barnstable, the town council, shall appoint a town open space committee to carry out the purposes of this act. Town committee members shall serve without compensation. Said committee shall recommend to the town meeting, or in the town of Barnstable, the town council, acquisition of specified land areas which qualify as land bank purchases in accordance with the purposes set forth in section 3.

The town committees shall recommend acquisitions of interests in real property and other expenditures consistent with section 3 to the town meeting, or, in the town of Barnstable, the town council. In considering the recommendations of any such acquisition, town committees shall use as a guideline local and regional open space plans, master plans, and local comprehensive plans, if any. Real property interests acquired by a town under this act shall be owned and managed by said town; provided, however, that the board of selectmen or town council, whichever is appropriate, may delegate management of such property to a nonprofit organization created under chapter 180 or chapter 203 of the General Laws, or, in the case of interests to acquire sites for future wellhead development, by a water company, a water district, a water supply district, or a fire district.

SECTION 5. Notwithstanding the provisions of section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, a town which votes to participate in the Cape Cod Open Space Land Acquisition Program shall establish a separate

account to be known as the Land Bank Fund for the purposes set forth in section 3. Such account shall be maintained by the treasurer, and the following monies shall be deposited into said account: (i) all monies collected from the additional excise under section 6 or bond proceeds in anticipation of revenue pursuant to section 7; and (ii) any funds received from the commonwealth or any other source for such purposes; provided, however, that funds received from the commonwealth pursuant to section 10 shall provide a 50 per cent match only to those monies collected from the additional excise under section 6. The treasurer may invest the funds in such separate account in the manner authorized by sections 55 and 55A of said chapter 44. Any interest earned thereon shall be credited to and become part of such separate account.

Towns may use land bank funds, in whole or in part, as matching funds for the purpose of providing a match under the land conservation program created under section 11 of chapter 132A of the General Laws, under section 8 or under any other state or federal open space acquisition program consistent with the purposes of this act. The availability of funds under this act shall not affect the eligibility of any town to receive funds under said section 11 of said chapter 132A or to receive funds from any state or federal open space acquisition program. Not more than 3 per cent of said funds may be used for maintenance and improvement to property purchased with land bank funds.

SECTION 6. Notwithstanding the provisions of chapter 59 of the General Laws or any other general or special law to the contrary, any town which votes to participate in the Cape Cod Open Space Land Acquisition Program, in accordance with the provisions of this act, shall impose an additional excise on real property in an amount equal to 3 per cent of the real estate tax levy against said property. Said additional excise shall initiate with the next fiscal year for real estate tax bills following the vote of the town to participate in said program. The amount of said additional excise shall not be included in any calculation of total taxes assessed for purposes of section 21C of chapter 59 of the General Laws. All exemptions and abatements of real property tax authorized by said chapter 59 or any other law for which a taxpayer qualifies is eligible shall not be affected by this act.

SECTION 7. Any town, which votes to participate in the Cape Cod Open Space Land Acquisition Program, may issue, from time to time, general obligation bonds or notes in anticipation of revenues to be received pursuant to section 6. Bonds or notes so issued may be at such rates of interest as shall be necessary and shall be repaid as soon after such revenues are collected as is expedient. Towns which choose to issue bonds pursuant to this section shall make every effort to limit the administrative costs of so issuing bonds by cooperating among each other using methods including, but not limited to, common issuance of bonds or common retention of bond counsel.

SECTION 8. There is hereby established in the executive office of environmental affairs, a program to provide for matching funds to be awarded to the towns in Barnstable county for open space acquisition, watershed protection, recreational uses and related activities to protect the natural and recreational resources of Barnstable county. To be eligible to participate in such grant program, a town must have voted to participate in the Cape Cod

Open Space Land Acquisition Program in accordance with the provisions of this act. Annually on July 15, the commissioner shall grant to each town that votes to participate in said program, an amount from the Cape Cod Land and Aquifer Protection Fund established in section 10. Said amount shall be 50 per cent of the amount the comptroller certifies has been collected in the preceding fiscal year by such town from the additional excise under section 6.

SECTION 9. The state secretary shall cause the following question to be placed on the official ballot to be used in each of the 15 towns comprising Barnstable county at the biennial state election to be held in the year 1998:- "Shall an act passed by the general court in the year 1998 entitled 'An Act Relative to the Establishment of the Cape Cod Open Space Land Acquisition Program', to acquire open space and conservation land, provide bicycling and walking trails, enhance opportunities for recreation and protect public drinking water supplies, and to be funded by an additional excise on real property, but not affecting existing abatements and exemptions, and expiring on January 1, 2020, be accepted?" If a majority of votes cast in a town in answer to said question is in the affirmative, then this act shall take full effect in such town.

If a majority of votes cast in a town at said election in answer to said question is in the negative, then said town shall not participate in the Cape Cod Open Space Land Acquisition Program. If a majority of votes cast in a town at said election in answer to said question is in the affirmative, then said town shall participate in the Cape Cod Open Space Land Acquisition Program.

After the first two years following the effective date of this act and every two years thereafter, a town may, by a majority vote of those voting in the annual town election choose to participate in the Cape Cod Open Space Land Acquisition Program. Said program shall be effective at the beginning of the next fiscal year in any town which so chooses to participate pursuant to this section.

SECTION 10. There is hereby established on the books of the commonwealth a Cape Cod Land and Aquifer Protection Fund to be administered by the secretary of environmental affairs for the purpose of provided matching grants to municipalities in Barnstable county that acquire land for open space and aquifer protection. Said fund shall be established as an expendable trust and not subject to appropriation. Any acquisition for which a municipality seeks grants from said fund shall meet eligibility criteria established by said secretary. Said secretary shall annually on July 15 disburse from said fund 50 per cent of the amount the comptroller certifies has been collected in the preceding fiscal year by each such town from the additional excise under section 6.

Said eligibility criteria shall include, but need not be limited to, the requirement that any such acquisition shall confer a significant environmental benefit, shall be retained in natural, scenic or open condition, and shall be bound by a permanent deed restriction that runs with the land, which limits the use of the interest to the purpose for which it was acquired. Said eligibility criteria shall limit matching grants from said fund to only those properties approved for acquisition by a municipality after September 1, 1998. Matching

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grants shall only be permitted to be used for acquisitions consisting of interests in real property consisting of the uses contained in section 3.

The comptroller is hereby authorized and directed to transfer from the General Fund to the Cape Cod Land and Aquifer Protection Fund established by this section the amount of \$15,000,000 not later than June 30, 1998. Said amount shall be available for disbursement until June 30, 2002.

SECTION 11. There is hereby established a study committee to investigate the efficacy and utility of using revenues from a locally approved increase in the room occupancy tax or other source of revenue to further fund the Land Bank Funds established pursuant to section 5. Said committee shall consist of two members of the house of representatives, two members of the senate, a designee of the Cape Cod chamber of commerce economic development division, a designee of the Cape Cod Commission, a designee of the Association for the Preservation of Cape Cod, a designee of working together for a better Cape Cod, and a designee of the Barnstable county economic development commission. The committee shall file a report of its findings and recommendations and drafts of legislation necessary to put its recommendations into effect with the house and senate committees on ways and means and the joint committee on natural resources and agriculture on or before March 1, 1999.

SECTION 12. Sections 9 and 10 of this act shall take effect upon its passage. The remaining provisions of this act shall take effect upon its approval by a majority of all votes cast in each town pursuant to said section 9.

SECTION 13. This act shall expire on January 1, 2020.

Approved August 11, 1998.

Chapter 294. AN ACT FURTHER REGULATING THE DISCLOSURE OF CERTAIN INFORMATION IN REAL ESTATE TRANSACTIONS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 93 of the General Laws is hereby amended by adding the following section:-

Section 108. The fact or suspicion that real property may be or is psychologically impacted shall not be deemed to be a material fact required to be disclosed in a real estate transaction, except as provided in this section. "Psychologically impacted" shall mean an impact being the result of facts or suspicions including, but not limited to, the following:

(a) that an occupant of real property is now or has been suspected to be infected with Human Immunodeficiency Virus or with Acquired Immune Deficiency Syndrome or any other disease which reasonable medical evidence suggests to be highly unlikely to be transmitted through the occupying of a dwelling;

(b) that the real property was the site of a felony, suicide or homicide; and

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(c) that the real property has been the site of an alleged parapsychological or supernatural phenomenon.

No cause of action shall arise or be maintained against a seller or lessor of real property or a real estate broker or salesman, by statute or at common law, for failure to disclose to a buyer or tenant that the real property is or was psychologically impacted.

Notwithstanding the foregoing, the provisions of this section shall not authorize a seller, lessor or real estate broker or salesman to make any misrepresentation of fact or false statement.

SECTION 2. The provisions of this act shall apply only to transactions entered into after the effective date of this act.

Approved August 11, 1998.

Chapter 295. AN ACT RELATIVE TO THE CONSUMER AND MERCHANT PROTECTION ACT.

Be it enacted, etc., as follows:

SECTION 1. Section 115A of chapter 6 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "section", in line 19, the first time it appears, the following words:- , and shall issue notices of violations of this section.

SECTION 2. Said section 115A of said chapter 6, as so appearing, is hereby further amended by inserting after the word "dollars", in line 22, the following words:- or shall be subject to a civil citation as provided in section 29A of chapter 98.

SECTION 3. Section 92B of chapter 94 of the General Laws, as so appearing, is hereby amended by inserting after the word "dollars", in line 7, the following words:- or shall be subject to a civil citation as provided in section 29A of chapter 98.

SECTION 4. Section 96 of said chapter 94, as so appearing, is hereby amended by inserting after the word "dollars", in line 16, the following words:- or shall be subject to a civil citation as provided in section 29A of chapter 98.

SECTION 5. Section 98 of said chapter 94, as so appearing, is hereby amended by inserting after the word "dollars", in line 18, the following words:- or shall be subject to a civil citation as provided in section 29A of chapter 98.

SECTION 6. Section 174A of said chapter 94, as so appearing, is hereby amended by inserting after the word "dollars", in line 16, the following words:- or shall be subject to a civil citation as provided in section 29A of chapter 98.

SECTION 7. Section 176 of said chapter 94, as so appearing, is hereby amended by inserting after the word "dollars", in line 9, the following words:- or shall be subject to a civil citation as provided in section 29A of chapter 98.

SECTION 8. Section 177 of said chapter 94, as so appearing, is hereby amended by

inserting after the word "dollars", in line 19, the following words:- or shall be subject to a civil citation as provided in section 29A of chapter 98.

SECTION 9. Section 181 of said chapter 94, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

Any representative authorized by the director of standards and any person authorized under section 34, 35 or 36 of chapter 98, shall enforce this section and sections 182 to 184E, inclusive, except section 184A. Enforcement shall include, but shall not be limited to, conducting inspections and issuing notices of violations as provided in section 29A of said chapter 98.

SECTION 10. Section 183 of said chapter 94, as so appearing, is hereby amended by inserting after the word "dollars", in line 4, the following words:- or shall be subject to a civil citation as provided in section 29A of chapter 98.

SECTION 11. Section 184B of said chapter 94, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "one hundred and eighty-four C to one hundred and eighty-four E" and inserting in place thereof the following words:- 184C to 184E.

SECTION 12. Section 184E of said chapter 94, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Any representative authorized by the director of standards may conduct inspections of any item and shall issue notices of violation to any food store or food department for any violation of this section and sections 184B to 184D, inclusive, provided, however, that no food store or food department shall be inspected more than once a week. Violations shall be punished for the first offense by a fine of \$100, for the second offense by a fine of \$250, and for a subsequent offense, by a fine of \$500. Notwithstanding the method for determining the amount of civil fines pursuant to section 29A of said chapter 98, a civil citation may be issued for \$100 for each violation, up to a maximum of \$2,500 per inspection. For purposes of this section each item which scans erroneously shall constitute a separate civil violation. The seller shall immediately correct all violations including those where a tolerance was granted.

SECTION 13. Section 295H of said chapter 94, as so appearing, is hereby amended by inserting after the word "division", in line 1, the following words:- and any representative authorized by the director of standards and any person authorized under section 34, 35 or 36 of chapter 98.

SECTION 14. Section 295K of said chapter 94, as so appearing, is hereby amended by adding after the word "dollars", in line 5, the following words:- or shall be subject to a civil citation as provided in section 29A of chapter 98.

SECTION 15. Section 299 of said chapter 94, as so appearing, is hereby amended by inserting after the word "dollars", in line 13, the following words:- or shall be subject to a civil citation as provided in section 29A of chapter 98.

SECTION 16. Section 303F of said chapter 94, as so appearing, is hereby amended by adding after the word "dollars", in line 53, the following words:- or shall be subject to a civil citation as provided in section 29A of chapter 98.

SECTION 17. Section 1 of chapter 98 of the General Laws, as so appearing, is hereby amended by striking out the definitions of "Deputy", "Inspector" and "Sealer", and inserting in place thereof the following three definitions:-

"Deputy", deputy sealer of weights and measures certified by the director.

"Inspector", inspector of standards certified by the director.

"Sealer", sealer of weights and measures certified by the director.

"Committee", the certification within the division of standards. Said committee shall consist of the director of standards, and a designee from each of the following organizations: the Massachusetts Weights and Measures Association, the Eastern Massachusetts Weights and Measures Association, the Western Massachusetts Weights and Measures Association, and the city of Boston's department of inspectional services.

SECTION 18. Section 19 of said chapter 98, as so appearing, is hereby amended by adding after the word "sold", in line 5, the following words:- or shall be subject to a civil citation as provided in section 29A.

SECTION 19. Said section 19 of said chapter 98, as so appearing, is hereby further amended by striking out, in line 10, the word "offence" and inserting in place thereof the following words:- offense or shall be subject to a civil citation as provided in section 29A.

SECTION 20. Section 24 of said chapter 98, as so appearing, is hereby amended by inserting after the word "dollars", in line 7, the following words:- or shall be subject to a civil citation as provided in section 29A.

SECTION 21. Section 25 of said chapter 98, as so appearing, is hereby amended by inserting after the word "dollars", in line 9, the following words:- or shall be subject to a civil citation as provided in section 29A.

SECTION 22. Section 26 of said chapter 98, as so appearing, is hereby amended by inserting after the word "dollars", in line 4, the following words:- or shall be subject to a civil citation as provided in section 29A.

SECTION 23. Section 29 of said chapter 98, as so appearing, is hereby amended by adding the following paragraph:-

The committee shall certify all inspectors, sealers and deputies in accordance with sections 34, 35 and 36 and regulations promulgated by the committee including, but not limited to, regulations covering initial written certification testing for inspectors, sealers and deputies and mandatory continuing education programs for inspectors, sealers and deputies to maintain their certificates. Every store, retail establishment, food store or food department and all merchants within the jurisdiction of the division of standards shall provide adequate space for the display of information relative to how the local sealer or inspector or the division of standards can be contacted as provided in regulations to be promulgated by the committee. Notwithstanding any certification exemption, all sealers, inspectors and deputy sealers and deputy inspectors shall participate in continuing education programs. The committee shall establish a training and education fee to be paid by the municipality which employs such sealer, inspector, deputy sealer and deputy inspector sufficient to offset the cost of providing such training and education.

There shall be a permanent standing advisory committee comprised of the director of the division of standards or his designee, and a designee from each of the following organizations: the Massachusetts Weights and Measures Association, The Eastern Massachusetts Weights and Measures Association, the western Massachusetts Weights and Measures Association, and the city of Boston's department of inspectional services. Members of said board shall serve without compensation. Said committee shall be chaired by the director or deputy director of the division of standards. The committee shall develop, and from time to time, revise the certification and continuing education requirements that are established by the division of standards.

SECTION 24. Said chapter 98 is hereby amended by inserting after section 29, as so appearing, the following section:-

Section 29A. As an alternative to initiating criminal proceedings for violations of the following weights and measures laws: section 115A of chapter 6; sections 92B, 96, 98, 174A, 176, 177, sections 181 to 183, inclusive, section 184E, sections 295A to 295K, inclusive, sections 299 and 303F of chapter 94; sections 19, 24, 25, 26, 31, 35, 42, 45, 48, 55, and 56A to 56D, inclusive, of chapter 98, any representative authorized by the director of standards and any person authorized under sections 34, 35 or 36 of this chapter may issue a civil citation for violations of said weights and measures laws in the amount of 75 per cent of the maximum criminal fine provided for said violation, to be paid within 21 days of the date of issuance of such citation.

Any person aggrieved by any citation issued pursuant to this section may appeal said citation by filing a notice of appeal with the director of standards within seven days of the receipt of the citation. Any such appellant shall be granted a hearing before a representative of the director of standards in accordance with chapter 30A. The hearing officer may affirm, vacate or modify the citation. Any person aggrieved by a decision of the hearing officer may file an appeal in the superior court pursuant to the provisions of said chapter 30A.

If a person fails to comply with the requirement set forth in any citation issued pursuant to this section, or shall fail to pay any civil penalty provided thereby within 21 days of the date of issuance of such citation, or within 30 days following the decision of the hearing officer if such citation has been appealed, excluding any time during which judicial review of the hearing officer's decision remains pending, the director of the division of standards may apply for a criminal complaint against such person for the violation, or may initiate a civil action in the district court.

All monies collected by a municipality or local consumer aid groups authorized by the director of standards under said civil citations, less any fee owed to the division of standards for contracted enforcement services pursuant to section 35, shall be retained by such municipality or local consumer aid group authorized by the director of standards, and shall be expended for the purposes of enforcement of item pricing and weights and measures laws. All monies collected by the division of standards under said civil citations shall be credited to the general fund.

Any citation issued by a municipality with a population of over 400,000 is exempt

from this appellate procedure. All notices of appeals should be filed with said municipality's appellate board.

SECTION 25. Section 31 of said chapter 98, as so appearing, is hereby amended by inserting after the word "dollars", in line 18, the following words:- or shall be subject to a civil citation as provided in section 29A.

SECTION 26. Section 34 of said chapter 98, as so appearing, is hereby amended by striking out, in line 2, the words "ten thousand" and inserting in place thereof the following figure:- 20,000.

SECTION 27. Said section 34 of said chapter 98, as so appearing, is hereby further amended by adding the following sentence:- The sealer and all deputies shall be certified by the committee within one year after assuming their powers and duties. Failure to become certified within one year shall be cause for termination; provided, however, that sealers, inspectors or deputy sealers or deputy inspectors, employed by the division or a municipality upon the effective date of this paragraph, shall become certified within two years. Sealers, inspectors or deputy sealers or deputy inspectors who pass a civil service exam for a position as a sealer, inspector or deputy sealer or deputy inspector of weights and measures, shall be exempt from certification requirements. Notwithstanding any certification exemption, all sealers, inspectors and deputy sealers and deputy inspectors shall participate in continuing education programs. The committee shall establish a training and education fee to be paid by the municipality which employs such sealer, inspector, deputy sealer and deputy inspector sufficient to offset the cost of providing such training and education.

SECTION 28. Said chapter 98 is hereby further amended by striking out section 35, as so appearing, and inserting in place thereof the following section:-

Section 35. (a) The mayor of each city and the selectmen of each town of more than 5,000 and less than 20,000 inhabitants shall establish a comprehensive weights measures enforcement system, subject to annual review by the director, by adopting one of the following three methods:

(1) The mayor of each city and the selectmen of each town of more than 5,000 and less than 20,000 inhabitants may annually appoint a sealer and may appoint one or more deputies to act under his direction. The sealer and all deputies shall be certified by the committee within one year after assuming their powers and duties. Such sealers and deputies shall have the same powers and duties as sealers and deputies appointed under section 34 and shall receive such compensation as may be determined by the selectmen and mayor and an additional allowance for transportation and other necessary expenses. The selectmen and mayor may at any time remove such sealers or deputies and appoint others in their places.

(2) The mayor of each city and the selectmen of each town of more than 5,000 and less than 20,000 inhabitants may contract with the director for the enforcement of the laws pertaining to the sealing of weighing and measuring devices, inspections of item and unit pricing laws and enforcement of other laws relative to weights and measures. The committee shall adopt and shall enforce all such reasonable regulations as may be necessary to establish such contracts. The committee shall set a fee schedule for such enforcement services sufficient to offset the cost of providing such services.

(3) The mayor of each city and the selectmen of each town of more than 5,000 and less than 20,000 inhabitants may combine the whole or part of their territories to establish a weights and measures program as set forth in section 36.

(b) The sealer and all deputies shall be certified by the committee within one year after assuming their powers and duties. Failure to become certified within one year shall be cause for termination. Sealers, inspectors or deputy sealers or deputy inspectors, employed by the division or a municipality upon the effective date of this section, shall become certified within two years; provided, however, that sealers, inspectors or deputy sealers or deputy inspectors who pass a civil service exam for a position as a sealer, inspector or deputy sealer or deputy inspector of weights and measures, shall be exempt from certification requirements. Regardless of any certification exemption, all sealers, inspectors, and deputy sealers and deputy inspectors shall participate in continuing education programs. The committee shall establish a training and education fee to be paid by the municipality which employs each sealer, inspector, deputy sealer and deputy inspector sufficient to offset the cost of providing such training and education.

SECTION 29. Section 36 of said chapter 98, as so appearing, is hereby amended by adding the following five sentences:- The sealer and all deputies shall be certified by the director within one year after assuming their powers and duties. Failure to become certified within one year shall be cause for termination; provided, however, that sealers, inspectors or deputy sealers or deputy inspectors, employed by the division or a municipality upon the effective date of this section, shall become certified within two years. Sealers, inspectors or deputy sealers or deputy inspectors who pass a civil service exam for a position as a sealer, inspector or deputy sealer or deputy inspector of weights and measures, shall be exempt from certification requirements. Notwithstanding any certification exemption, all sealers, inspectors, deputy sealers and deputy inspectors shall participate in continuing education programs. The committee shall establish a training and education fee to be paid by the municipality which employs each sealer, inspector, deputy sealer and deputy inspector sufficient to offset the cost of providing such training and education.

SECTION 30. Said chapter 98 is hereby further amended by inserting after section 36, as so appearing, the following section:-

Section 36A. For a city or town where the mayor or board of selectmen have appointed a sealer pursuant to paragraph (1) of subsection (a) of section 35, or for a city or town where the mayor or board of selectmen have appointed a sealer pursuant to section 34, or for a city or town where the mayor or board of selectmen have failed to appoint a sealer, or for municipalities which have combined their territories pursuant to section 36, the director may, upon complaint and after investigation, determine that such city or town has an inadequate weights and measures enforcement system for the purposes of this section the term inadequate shall be defined as the failure to name a sealer, failure to file an annual report, or gross failure to complete mandatory inspections of weighing and measuring devices and retail scanners. Upon such determination, the director shall send notice to such city or town of the intent of the director to take responsibility for enforcing the weights and

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measures laws in such city or town. If within 60 days of the notification by the director, such city or town has not improved the weights and measures enforcement system to the satisfaction of the director, the director shall assume responsibility for weights and measures enforcement, including inspectional services, in such city or town and the director may charge such city or town for the cost of said services, until such time as the director determines that an adequate local program is in place.

SECTION 31. Said chapter 98 is hereby further amended by striking out section 37, as so appearing, and inserting in place thereof the following section:-

Section 37. Each municipality shall annually, between January 1 and January 31, submit to the director a written report that describes the components of the municipality's weights and measures program, including, but not limited to, an inventory of all weighing and measuring devices and equipment and the date of the most recent certification for each device or piece of equipment, inspection results by category, results of tests performed pursuant to section 56D, total citations issued by category, the net loss restored to consumers and merchants as a result of its enforcement program, and any other information required by the director.

A municipality that does not report to the director in the manner prescribed in this section shall not be eligible to retain any revenues generated by the municipality as a result of imposing civil citations as provided in section 29A.

SECTION 32. Section 42 of said chapter 98, as so appearing, is hereby amended by inserting after the word "offense", in line 37, the following words:- , or shall be subject to a civil citation or order as provided in section 29A.

SECTION 33. Section 45 of said chapter 98, as so appearing, is hereby amended by inserting after the word "dollars", in line 14, the following words:- or shall be subject to a civil citation as provided in section 29A.

SECTION 34. Section 48 of said chapter 98, as so appearing, is hereby amended by inserting after the word "dollars", in line 5, the following words:- or shall be subject to a civil citation as provided in section 29A.

SECTION 35. Section 55 of said chapter 98, as so appearing, is hereby amended by adding after the word "dollars", in line 12, the following words:- or shall be subject to a civil citation as provided in section 29A.

SECTION 36. The first paragraph of section 56 of said chapter 98, as so appearing, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following introductory paragraph:-

Except as otherwise established in a town by town meeting action and in a city by city council action, by adoptions of the appropriate by-laws and ordinances to set such fees, sealers shall receive and inspectors may demand the following fees for sealing and inspecting the following weighing or measuring devices:.

SECTION 37. Said first paragraph of said section 56 of said chapter 98, as so appearing, is hereby further amended by adding the following three subparagraphs:-

(n) Each automated electronic retail checkout system with fewer than four cash registers or computer terminals, not more than \$75.

(o) Each automated electronic retail checkout system with no less than four and no more than 11 cash registers or computer terminals, not more than \$150.

(p) Each automated electronic retail checkout system with greater than 11 cash registers or computer terminals, not more than \$250.

SECTION 38. Said chapter 98 is hereby further amended by striking out section 56A and inserting in place thereof the following section:-

Section 56A. Whoever places a scale or weighing device when used in weighing food sold at retail by weight in the presence of the purchaser so that the weight indicator may not be read and the weighing operations be observed by the purchaser shall be punished by a fine of \$50, or shall be subject to a civil citation as provided in section 29A.

SECTION 39. Section 56B of said chapter 98, as so appearing, is hereby amended by inserting after the word "dollars", in line 6, the following words:- or shall be subject to a civil citation as provided in section 29A.

SECTION 40. Section 56C of said chapter 98, as so appearing, is hereby amended by inserting after the word "dollars", in line 5, the following words:- or shall be subject to a civil citation as provided in section 29A.

SECTION 41. Section 56D of said chapter 98, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following two paragraphs:-

The director or his inspectors, and sealers and inspectors of weights and measures and their deputies, shall in every 24-month period, examine and test the operation of all automated retail checkout systems, in all establishments with three or more cash registers, and shall upon complaint to said officials examine and test the operation of any automated retail checkout system to determine whether the price which an item is offered or advertised for sale, including any advertised special price offered to a customer with a store-issued discount card, conforms to the unit and/or net prices displayed to the customer on the visual display and conforms to the price for which a purchaser is charged by such automated retail checkout system to determine whether the total price for items purchased is correctly represented, and may issue notices of violations of this section, pursuant to section 29A and this section; provided, however, that nothing herein shall prohibit the director or his inspectors and sealers and inspectors of weights and measures and their deputies from examining and testing any system at any time irrespective of the number of cash registers within the establishment. If such examination and test reveals that there is evidence of price misrepresentation, or misleading or deception of the purchaser of items, the owner, manager or the designee of said owner or manager of the retail establishment using such automatic checkout system shall be punished for the first offense by a fine of \$100, for the second offense by a fine of \$250, and for a subsequent offense, by a fine of \$500. Notwithstanding the method for determining the amount of civil fines pursuant to said section 29A, a civil citation may be issued for \$100 for each violation, up to a maximum of \$2500 per inspection. For purposes of this section each item which scans erroneously shall constitute a separate civil violation.

The director shall promulgate and shall enforce regulations based on national industry standards and other criteria necessary to carry out the provisions of this section.

SECTION 42. Said chapter 98 is hereby further amended by striking out section 57, as so appearing, and inserting in place thereof the following section:-

Section 57. The director of the office of consumer affairs shall prepare and submit to the governor, the general court and the senate and house committees on post audit and oversight an annual report of the acts of the division of standards. Said report shall include a description of the activities of inspectors of the division of standards and sealers for cities and towns, a description of the components of the weights and measures program, including but not limited to, an inventory of all weighing and measuring devices and equipment held by the division of standards, the most recent date of certification for each device or piece of equipment, total inspection results by category, results of tests performed pursuant to section 56D, total citations issued by category, and the net loss restored to consumers and merchants as a result of its enforcement program.

SECTION 43. Section 30A of chapter 266 of the General Laws, as so appearing, is hereby amended by inserting after the third subparagraph the following subparagraph:-

any person who intentionally and falsely requests a payment from a seller under the provisions of section 56E of chapter 98; or.

SECTION 44. The regulations required to be promulgated by the director of the division of standards in section 41 of this act shall not take effect until 180 days after the effective date of this act.

SECTION 45. The division of standards shall promulgate regulations requiring that any retail outlet which uses an automated retail checkout system, as defined in section 56D, shall employ as part of its automated retail checkout system, a visual price display mechanism so that the price is readable to the customer.

Approved August 11, 1998.

Chapter 296. AN ACT RELATIVE TO THE TAXATION OF COMMON TRUST FUNDS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to further regulate forthwith the taxation of common trust funds, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Paragraph (e) of section 17 of chapter 62 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following paragraph:-

For purposes of this chapter, in determining items of income, basis, gain or loss with respect to a common trust fund or its participants involved in a transaction described in section 584(h) of the Internal Revenue Code, the provisions of said section 584(h) shall apply

as though incorporated herein. For purposes of the preceding sentence, "Internal Revenue Code" shall mean the Internal Revenue Code of the United States as amended and in effect on August 21, 1996.

SECTION 2. The provisions of this act shall be applicable to tax years commencing on or after January 1, 1998.

Approved August 11, 1998.

Chapter 297. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 1998 TO ENSURE ENVIRONMENTAL CLEANUP AND PROMOTE THE REDEVELOPMENT OF CONTAMINATED PROPERTY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to ensure forthwith environmental cleanup and promote the redevelopment of contaminated property, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for certain unanticipated obligations of the commonwealth and to meet certain requirements of law, the sums set forth herein shall be appropriated from the General Fund unless specifically designated otherwise and shall be for the several purposes and subject to the conditions specified herein and subject to the provisions of law regulating the disbursement of public funds; provided that notwithstanding the provisions of any general or special law to the contrary, funds appropriated in section 2A shall be available for expenditure until June 30, 2001.

NO SECTION 2.

SECTION 2A.

ATTORNEY GENERAL.

0810-0401 For the costs associated with operating the covenant not to sue program, so-called, pursuant to clause (3) of paragraph (j) of section 3A of chapter 21E \$2,000,000

DEPARTMENT OF ENVIRONMENTAL PROTECTION

2260-8871 For the costs associated with performing targeted audits of real property sites upon which activity and use limitations have been placed pursuant to chapter 21E, as directed by section 43 of the Brownfields act, so called; provided, further that the amount appropriated herein may also be expended on increased site visits by the department, increased oversight and training of licensed site profession-

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als, increased training of department inspectors and increased enforcement of activity and use limitations \$10,000,000

DEPARTMENT OF ECONOMIC DEVELOPMENT.

7007-0209 For the purpose of the redevelopment access to capital program established pursuant to section 60 of chapter 23A of the General Laws \$15,000,000
Brownfields Revitalization Fund 100.0%

7007-0210 For the purpose of the brownfields redevelopment fund established pursuant to section 8G of chapter 212 of the acts of 1975, as amended, provided, that not less than \$5,000,000 of the amount appropriated herein shall be expended for financial assistance to project sites located within Federal Empowerment Zones or Enterprise Communities established pursuant to title 42 of the United States Code, or any successor statute \$30,000,000
Brownfields Revitalization Fund 100.0%

SECTION 3. Chapter 29 of the General Laws is hereby amended by inserting after section 2TT, inserted by section 8I of chapter 194 of the acts of 1998, the following section:-

Section 2UU. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Brownfields Revitalization Fund. There shall be credited to such fund any appropriation, transfer, grant, gift, or other contribution made to such fund, and any income derived from investment of amounts credited to said fund. Amounts credited to said fund shall be held in an expendable trust and the department of economic development shall report monthly by source all amounts credited to said fund and all expenditures by subsidiary made from said fund on the Massachusetts management and accounting reporting system, so-called. Said amounts shall be used solely for the administration and implementation of the provisions of section 60 of chapter 23A and section 8G of chapter 212 of the acts of 1975.

SECTION 4. The comptroller is hereby authorized and directed to transfer \$45,000,000 from the General Fund to the Brownfields Revitalization Fund established pursuant to section 2UU of chapter 29 of the General Laws.

SECTION 5. This act shall take effect as of June 30, 1998.

Approved August 11, 1998.

Chapter 298. AN ACT PROVIDING FOR DISPOSITION OF LAND TO THE LAWRENCE REDEVELOPMENT AUTHORITY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the division of capital asset management and maintenance to grant

land and interests in land of the commonwealth located in the city of Lawrence, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital asset management and maintenance shall, subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, and notwithstanding the provisions of sections 61 to 62H, inclusive, of chapter 30, convey title to and an easement in, a certain parcel of land by deed approved as to form by the attorney general, located in the city of Lawrence to said city, and more particularly described below, specifically to the Lawrence Redevelopment Authority subject to the terms and conditions as said commissioner may prescribe in consultation with the department of environmental management.

Parcel 1. Title in fee simple in a parcel of land shown as Park drive on a plan of land entitled "Definitive Subdivision, Definitive Plan, Lawrence Riverfront Industrial Park, Andover Street, Lawrence, MA." prepared by W. C. Cammett Engineering, Inc., of Amesbury, Massachusetts, dated August 21, 1995, Sheets 7 and 8 of 22, recorded with the Essex county north district registry of deeds on November 30, 1995, Plan #12729, containing 67,628 square feet, more or less, for the purpose of annexation to, sale and development of land now owned by the Lawrence Redevelopment Authority and known as the Lawrence riverfront industrial park.

Parcel 2. Title in fee simple in three parcels of land shown as parcel numbers 29, 31 and 32 on a plan of land entitled "Land Acquisition Plan For Lawrence Redevelopment Authority Riverfront Urban Renewal Project," prepared by Cullinan Engineering Co., Inc., of Auburn and Boston, Massachusetts, dated August 1, 1986, as revised through December 21, 1987, Sheet 5 of 5, recorded with said Registry of Deeds on June 27, 1988, Plan #11170, containing, in the aggregate, 16,210 square feet, more or less, for the purpose of conveyance to the city of Lawrence for laying out a public way.

Parcel 3. Perpetual easement for the purpose of installation, maintenance, repair and replacement of a sewer line on a parcel of land shown as "Proposed 301 Wide Sewer Easement" on a plan of land entitled "Proposed Sewer Easement to be Granted to City of Lawrence in Lawrence, MA" prepared by W. C. Cammett Engineering, Inc., of Amesbury, Massachusetts, dated June 10, 1998, containing 22,144 square feet, more or less, said plan is on file with the city attorney's office for city of Lawrence and to be recorded with the deed of easement hereby authorized.

SECTION 2. The sale price paid by the city of Lawrence for said parcel of land shall be the full and fair market value of the property as determined by independent appraisal for its use as described herein. Said property shall be used for a recreation trail on said land now owned by the commonwealth and under the care and control of the department of environmental management, and the costs of construction of such recreation trail shall be borne by

said city of Lawrence. The inspector general shall review and approve said appraisal and said review shall include an examination of the methodology used for said appraisal. Said inspector general shall prepare a report of his review and file said report with the commissioner for submission to the house and senate committees on ways and means and the chairmen of the joint committee on state administration. If said commissioner determines that the consideration should be less than at fair market value, said commissioner shall provide a written disclosure in the central register, detailing the reasons for such determination. The consideration for said parcels shall take into account the obligations and restrictions placed on the city required by this section and the benefits of the project to the surrounding communities.

SECTION 3. The city of Lawrence or its designee shall be responsible for any costs of appraisals, surveys, and other expenses relating to the transfer of said parcel, or for any costs, liabilities and expenses of any nature and kind for the development, maintenance or operation of said parcel. In the event said parcel of land ceases to be used at any time for the purposes contained herein, said parcel shall revert to the care and control of the division of capital asset management and maintenance and any further disposition of said parcel of land shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws.

The commissioner of said division shall 30 days before the execution of any agreement authorized by this act, or any subsequent amendment thereof, submit the agreement or amendment and a report thereon to the inspector general for his review and comment. Said inspector general shall issue his review and comment within 15 days of receipt of any agreement or amendment. Said commissioner shall submit the agreement and any subsequent amendments thereof, the reports, and the comments of said inspector general, if any, to the house and senate committees on ways and means and the chairmen of the joint committee on state administration at least 15 days prior to execution.

SECTION 4. No deed by or on behalf of the commonwealth conveying the fee interests in Parcels 1 and 2, or the easement in Parcel 3, described in section 1 of this act shall be valid unless such deed provides that said fee interests and easement shall be used for the purposes described in section 2.

Approved August 11, 1998.

Chapter 299. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 1998 TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to make appropriations and transfers for fiscal year 1998 and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 1998 and for certain other activities and projects in said fiscal year, the sums set forth in section 2A are hereby appropriated from the General Fund unless specifically designated otherwise herein or in said appropriation acts, for the several purposes and subject to the conditions specified herein or in said appropriation acts, and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 1998. The sums appropriated herein shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

NO SECTION 2.

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth herein are hereby appropriated from the General Fund unless specifically designated otherwise herein, for the several purposes and subject to the conditions specified herein, and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 1998. The sums appropriated herein shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Reserves.

- 1599-2125 For a reserve to meet the fiscal years 1997 and 1998 costs of salary and benefit adjustments and other economic benefits authorized for those employees of the supreme judicial court, the appeals court and the trial court who are covered by the collective bargaining agreement between the trial court of the commonwealth and the Office and Professional Employees International Union, Local 6 (AFL-CIO) Professional Unit; provided, that the secretary of administration and finance is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1999 such amounts as may be necessary to meet the costs of said adjustments and benefits where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$215,490
- 1599-2126 For a reserve to meet the fiscal year 1999 costs of salary and benefit adjustments and other economic benefits authorized for those employees of the supreme judicial court, the

appeals court and the trial court who are covered by the collective bargaining agreement between the trial court of the commonwealth and the Office and Professional Employees International Union, Local 6 (AFL-CIO) Professional Unit; provided, that the secretary of administration and finance is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1999 such amounts as may be necessary to meet the costs of said adjustments and benefits where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of said transfers \$321,300

Collective Bargaining Reserve Fund 100.0%

- 1599-3866 For a reserve to meet the fiscal years 1997 and 1998 costs of certain increased compensation for officers in grade of lieutenant and grades superior thereto in the department of state police, including salary adjustments pursuant to the provisions of section 28A of chapter 22C of the General Laws; provided, that the secretary of administration and finance is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1999 such amounts as are necessary to meet said costs where the amounts otherwise available are insufficient for the purpose, in accordance with transfer plans which shall be filed in advance with the house and senate committees on ways and means \$4,239,000
- Highway Fund 88.2%
- Local Aid Fund 9.5%
- General Fund 2.3%

1599-3867 For a reserve to meet the fiscal year 1999 costs of certain increased compensation for officers in grade of lieutenant and grades superior thereto in the department of state police, including salary adjustments pursuant to the provi-

sions of section 28A of chapter 22C of the General Laws; provided, that the secretary of administration and finance is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1999 such amounts as are necessary to meet said costs where the amounts otherwise available are insufficient for the purpose, in accordance with transfer plans which shall be filed in advance with the house and senate committees on ways and means; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of said transfers \$3,445,000
Collective Bargaining Reserve Fund 100.0%

1599-3868 For a reserve to meet the fiscal year 1998 costs of salary adjustments authorized by the collective bargaining agreement between the University of Massachusetts and the Service Employees' International Union, Local 254, AFL-CIO, CLC Clerical-Technical Unit; provided, that the secretary of administration and finance is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1999 such amounts as are necessary to meet the costs of said adjustments where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$119,000

1599-3870 For a reserve to meet the fiscal year 1999 cost of compliance with the memorandum of understanding between the commonwealth and the Alliance, AFSCME-SEIU, regarding additional case manager positions at the department of mental health and additional service coordinator positions at the department of mental retardation; provided, that the secretary of administration and finance is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1999 such amounts as are necessary to meet said cost, in accordance with a transfer plan which shall be filed in

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	advance with the house and senate committees on ways and means	\$1,565,844
1599-3871	For a reserve to meet the fiscal year 1999 costs of certain economic benefits authorized by the collective bargaining agreements between the commonwealth and the National Association of Government Employees (Units 1, 3 and 6).	\$445,000
	Collective Bargaining Reserve Fund	100.0%
1599-3876	For a reserve to meet the fiscal year 1998 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Massachusetts Nurses Association (Unit 7) and to meet the fiscal year 1998 costs of salary adjustments and other economic benefits necessary to provide equal salary adjustments and benefits to employees employed in "confidential" positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such salary adjustments and benefits for such "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which otherwise would cover said positions; provided further, that said secretary is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1999 such amounts as are necessary to meet said costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of said transfers. . . .	\$6,870,000
	Collective Bargaining Reserve Fund	100.0%
1599-3877	For a reserve to meet the fiscal year 1999 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Massachusetts Nurses Association (Unit 7) and to meet the fiscal year 1999 costs of salary adjust-	

ments and other economic benefits necessary to provide equal salary adjustments and benefits to employees employed in "confidential" positions which otherwise would be covered by said agreement; provided, that the personnel administra-tor, with the approval of the secretary of administration and finance, shall determine such salary adjustments and bene-fits for such "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which otherwise would cover said positions; provided further, that said secretary is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1999 such amounts as are necessary to meet said costs where the amounts otherwise available are insufficient for the pur-pose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of said transfers; and provided further, that a total of \$115,000 of the sum appropriated herein shall be made available to meet the commonwealth's obligations pursuant to the provisions of section 11 of article 25, and subsection A of section 3 of article 30 of said agreement and shall not expire until June 30, 2000 \$9,920,000

Collective Bargaining Reserve Fund 100.0%

1599-7008 For a reserve to meet the fiscal years 1997 and 1998 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the State Police Association of Massachusetts and to meet the fiscal years 1997 and 1998 costs of salary adjustments and other economic benefits necessary to provide equal salary adjustments and benefits to employees employed in "confidential" positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine

such salary adjustments and benefits for such "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which otherwise would cover said positions; provided further, that said secretary is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1999 such amounts as are necessary to meet said costs where the amounts otherwise available are insufficient for the purpose, in accordance with transfer plans which shall be filed in advance with the house and senate committees on ways and means \$24,777,000

Highway Fund 88.2%

Local Aid Fund 9.5%

General Fund 2.3%

1599-7009 For a reserve to meet the fiscal year 1999 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the State Police Association of Massachusetts and to meet the fiscal year 1999 costs of salary adjustments and other economic benefits necessary to provide equal salary adjustments and benefits to employees employed in "confidential" positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such salary adjustments and benefits for such "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which otherwise would cover said positions; provided further, that said secretary is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1999 such amounts as are necessary to meet said costs where the amounts otherwise available are insufficient for the purpose, in accordance with transfer plans which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expen-

ditures from the accounts which receive transfers from this
item in amounts equal to the amounts of said transfers \$19,030,000
Collective Bargaining Reserve Fund 100.0%

NO SECTION 2B.

SECTION 2C.I. For the purpose of making available in fiscal year 1999 balances of appropriations which otherwise would revert on June 30, 1998, the unexpended balances of the maintenance appropriations listed below, not to exceed the amount specified below for each item, are hereby re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section 2 of chapter 194 of the acts of 1998; provided, however, that for items which do not appear in said section 2 of said chapter 194, the amounts in this section are re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section 2 or 2A of this act or in prior appropriation acts. Amounts in this section are re-appropriated from the fund or funds designated for the corresponding item in said section 2 of said chapter 194; provided, however, that for items which do not appear in said section 2 of said chapter 194, the amounts in this section are re-appropriated from the fund or funds designated for the corresponding item in said section 2 or 2A of this act or in prior appropriation acts. The sums re-appropriated herein shall be in addition to any amounts available for said purposes.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Reserves.

1599-2125	\$215,490
1599-2126	\$321,300
1599-3866	\$4,239,000
1599-3867	\$3,445,000
1599-3868	\$119,000
1599-3870	\$1,565,844
1599-3871	\$445,000
1599-3876	\$6,870,000
1599-3877	\$9,920,000
1599-7008	\$24,777,000
1599-7009	\$19,030,000

SECTION 3. This act shall take effect as of June 30, 1998.

Approved August 12, 1998.

Chapter 300. AN ACT ABOLISHING THE COUNTY GOVERNMENTS OF HAMPSHIRE, ESSEX, AND BERKSHIRE COUNTIES, AND TRANSFERRING ESSENTIAL COUNTY FUNCTIONS TO THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which

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is immediately to provide for the abolition of the county governments of Hampshire, Essex and Berkshire counties and to transfer their essential functions to the commonwealth, and to authorize the formation of regional councils of governments to administer and provide regional services, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 91 of chapter 32 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "people", in line 16, the following words:- for service rendered as the first members as of July 1, 1999 pursuant to section 28 of chapter 48 of the acts of 1997 and any consecutive reappointment.

SECTION 2. Chapter 54 of the General Laws is hereby amended by inserting after section 143 the following section:-

Section 143A. Registry of Deeds. Upon a vacancy by removal or otherwise in the office of register of deeds in a county or district in which said office is under the general superintendency or jurisdiction of the secretary of the commonwealth shall in like manner issue precepts for an election to fill such vacancy at the next biennial state election for which precepts can be reasonably issued, unless the term of said office expires on the first Wednesday of January following such state election, and the state secretary shall appoint some person to fill such office until a person is elected thereto and qualified. The person so appointed shall give bond as provided in section 3 of chapter 36.

SECTION 3. Section 13 of chapter 64D of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 5, the word "primarily" and inserting in place thereof the following word:- solely.

SECTION 4. Section 26 of chapter 74 of the General Laws, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words ", the Essex agricultural and technical institute,".

SECTION 5. Said section 26 of said chapter 74, as so appearing, is hereby further amended by adding the following paragraph:-

The board of trustees for the Essex agricultural and technical institute shall consist of seven trustees, who shall be residents of Essex county, appointed by the governor for a term of four years, of which not more than two or fewer than one term shall expire each year. The administrator of the Essex agricultural and technical institute may submit a list of potential candidates for selection to said board prior to appointment by the governor. Said institute shall be under the general supervision of the department of education and said board shall develop said institute's curriculum in consultation with teachers of said institute. The trustees shall appoint a treasurer who shall receive and take charge of all monies due to said institute, and who shall give a bond for the faithful performance of his duties in accordance with the provisions of section 35 of chapter 41. The fiscal year of said institute shall be the same as the fiscal year of cities and towns.

SECTION 6. Section 28 of said chapter 74, as so appearing, is hereby amended by adding the following paragraph:-

Notwithstanding the preceding paragraph, in Essex county, the total budget estimates approved by the board of education shall govern the spending of the Essex agricultural and technical institute, which shall not incur liabilities in excess of the approved amounts without first obtaining the approval of the board of trustees of a revised budget. Said board shall not approve a budget of said institute, or revisions thereof, unless said board is satisfied that said institute's revenues and available funds are sufficient to meet the proposed expenditures.

SECTION 7. Section 30 of said chapter 74, as so appearing, is hereby amended by striking out, in line 2, the words ", the Essex agricultural and technical institute".

SECTION 8. Said chapter 74 is hereby further amended by striking out section 31C, as so appearing, and inserting in place thereof the following section:-

Section 31C. The trustees of the Essex agricultural and technical institute are hereby authorized to enter into agreements providing for the payment of insurance covering dismemberment or death and the reasonable hospital, medical and surgical expenses incurred by, or in behalf of, any student in the institute by reason of injuries sustained by him while participating, or practicing or training for participation, in any game, meet, or contest conducted or held as part of or in connection with the physical education, athletic program, or interscholastic sports program of said institute.

SECTION 9. Section 33 of said chapter 74, as so appearing, is hereby amended by inserting after the word "county", in line 13, the following words:- or the treasurer of the Essex agricultural and technical institute appointed by the trustees pursuant to section 26.

SECTION 10. Said section 33 of said chapter 74, as so appearing, is hereby further amended by striking out, in line 18, the words "Essex county" and inserting in place thereof the following words:- the Essex agricultural and technical institute.

SECTION 11. Section 1 of chapter 48 of the acts of 1997 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. The government of each of the following counties, in this act called an "abolished county" is hereby abolished as provided in this act as of the following date, in this act called the "transfer date", or on such earlier date 30 days after the commissioner of revenue certifies in writing that the county has failed to make a required payment on an outstanding bond or note: (a) Middlesex county, as of the effective date of this act; (b) Hampden and Worcester counties, as of July 1, 1998; (c) Hampshire county, as of January 1, 1999; provided, however, that all functions, duties and responsibilities for the operation and management of the jail, house of correction and registry of deeds of Hampshire county and all duties and responsibilities for operation and management of property occupied primarily by the sheriff, registry of deeds and the trial courts in Hampshire county are hereby transferred to the commonwealth, effective July 1, 1998, subject to the provisions of this act; (d) Essex county as of July 1, 1999; and (e) Berkshire county as of July 1, 2000.

SECTION 12. Section 2A of said chapter 48 is hereby amended by striking out the words "task force established in section 19 of this act; provided however that said funds ap-

propriated herein shall only be expended for the expenses of an independent audit and valuation of the total liabilities and assets of each county in the commonwealth pursuant to section 19" and inserting in place thereof the following words:- required under section 21 of this act; provided however that said funds appropriated herein shall only be expended for the expenses of an independent audit and valuation of the total liabilities and assets of each county in the commonwealth pursuant to section 21.

SECTION 13. Section 3 of said chapter 48 is hereby amended by adding the following paragraph:-

In fiscal year 1999, the county tax to be levied in Hampshire county shall not exceed one-half of the amount computed pursuant to sections 30 and 31 of chapter 35 and section 20A of chapter 59 of the General Laws and shall be payable on November 1, 1998, to the Hampshire county government. Notwithstanding the provisions of any general or special law to the contrary, all powers and duties of the Hampshire county government not transferred to the commonwealth pursuant to section 1 shall be transferred to the Hampshire council of governments effective on the date of its establishment pursuant to section 30. If the Hampshire council of governments is not approved pursuant to section 30, all powers and duties of Hampshire county government shall be transferred to the commonwealth effective January 1, 1999.

SECTION 14. Section 4 of said chapter 48 is hereby amended by striking out the second sentence and inserting in place thereof the following two sentences:- There shall be no increase in the salary of any abolished county's elected official, prior to the transfer of the abolished county to the commonwealth. Subsequent increases shall be governed by appropriate provisions of the commonwealth's general and special laws.

SECTION 15. The first sentence of section 5 of said chapter 48 is hereby amended by inserting after the words "transfer date", in line 5, the following words:- or, in the case of Hampshire county, September 1, 1998.

SECTION 16. Said section 5 of said chapter 48, as so appearing, is hereby further amended by striking out the second sentence, added by section 87 of chapter 88 of the acts of 1997, and inserting in place thereof the following three sentences:- All persons employed by the former Franklin county or by an abolished county, or by Hampshire county as of September 1, 1998, whose work functions primarily concern the operation and maintenance of said county's court facilities shall be transferred to the commonwealth under the administrative office of the trial court as of the effective date of the transfer, which in the case of Hampshire county shall be September 1, 1998, in the manner provided in section 21 of chapter 203 of the acts of 1988, as amended by chapter 379 of the acts of 1992, and with no impairment of employment rights held immediately before transfer, without interruption of service, without loss of earned vacation and sick time, without reduction in compensation or salary grade, and without impairment of seniority, retirement or other rights of employees. Nothing in this section shall be construed to confer upon any employee any right not held immediately before the transfer. Said employees shall be reclassified as state employees for the fiscal year in which their transfer is effective, and shall be compensated from funds appropriated to the trial court.

SECTION 17. Section 6 of said chapter 48 is hereby amended by inserting after the word "commonwealth", in line 6, the following words:- , except as otherwise provided in this act.

SECTION 18. Said section 6 of said chapter 48 is hereby further amended by adding the following three sentences:- Valid liabilities and debts of Hampshire county pertaining to the functions and employees transferred to the commonwealth on September 1, 1998 pursuant to section 1 of this act, which are in force on the date of transfer, are obligations of the commonwealth as of September 1, 1998. Said liabilities and debts shall include the operating and capital debt of Hampshire county, and operating and capital debt attributable to the Hampshire care nursing facility; provided, however, that the total of such debt shall not exceed \$2,145,000 and any such debt in excess of \$2,145,000 shall not be the obligation of the commonwealth; and provided further, that such debt described herein shall not include Medicaid overpayments, the unfunded pension liability of abolished county employees and retirees, and the unfunded pension liability of nursing home employees and retirees. All assets of Hampshire county pertaining to the functions and employees transferred on September 1, 1998 pursuant to said section 1, including revenue received pursuant to chapter 64D of the General Laws and such other revenue said county receives pertaining to said functions and employees transferred pursuant to section 1, as of immediately before September 1, 1998, shall become assets and revenue of the commonwealth, except as otherwise provided in this act.

SECTION 19. The first paragraph of section 7 of said chapter 48 is hereby amended by inserting after the words "transfer date", in line 3, the following words:- and, in the case of Hampshire county, the date of transfer of certain Hampshire county functions and property pursuant to section 1.

SECTION 20. Said section 7 of said chapter 48 is hereby further amended by adding the following two paragraphs:-

If, however, the Hampshire council of governments is approved pursuant to section 30 of this act, said council shall acquire ownership of the following property: the historic courthouse at 99 Main Street in the city of Northampton the Hampshire Care nursing facility on River Road in Leeds, and the land on which they are situated as currently platted, and the fixtures and improvements located thereon; provided, however, that the commonwealth shall assign no fewer than ten parking spaces in the Gothic Street Parking lot to the Hampshire council of governments, to be distributed at the discretion of the Hampshire council of governments; and provided, further, that in the event that said council has an aggregate equalized valuation as certified by the commissioner of revenue pursuant to section 10 of chapter 58 of the General Laws, as of January 1, 1996, of less than 30 per cent of the total equalized valuation of municipalities in the county on such date, said property shall revert to the commonwealth. Said council shall, in consultation with the chief justice for administration and management of the trial court and the commissioner of the division of asset management and maintenance, provide for the lease or rental of space in the historic courthouse now occupied by the law library for use and occupancy of the trial court law

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library for a period of 99 years at nominal cost, and shall allow the trial court to schedule use of the court room to the extent needed by said court up to two times the number of days used by the trial court in fiscal year 1998; and provided further that any lease agreement shall be subject to the approval of the commissioner of the division of asset management and maintenance.

Until December 31, 1998, the offices of the Hampshire county's cooperative insurance trust, cooperate group purchasing, Hampshire care, regional services, human services, treasurer and commissioners shall continue to occupy, at no cost, the office space occupied by said offices immediately prior to September 1, 1998.

SECTION 21. Said chapter 48 is hereby further amended by inserting after section 7 the following section:-

Section 7A. (a) Notwithstanding the provisions of any general or special law to the contrary, any agricultural school or agricultural and technical institute of an abolished county shall be subject to the provisions of this section and shall operate in accordance with chapter 74 of the General Laws, except to the extent that said chapter 74 is inconsistent with the provisions of this section. Said school shall continue to receive funding under the chapter 70 formula.

(b) Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, employees of a county agricultural school or agricultural and technical institute transferred to the commonwealth shall be transferred with no impairment of employment rights held immediately before the transfer date, without interruption of service, without impairment of seniority, retirement or other rights of employees, without reduction in compensation or salary grade and without change in union representation. All such employees shall continue their right to collectively bargain pursuant to chapter 150E of the General Laws, and shall be considered employees for the purposes of said chapter 150E. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred, until the expiration of said agreement. Thereafter, the board of trustees of said school or institute shall be the "employer" for purposes of said chapter 150E, and shall bargain under the Horace Mann charter school model pursuant to section 89 of chapter 71 of the General Laws.

(c) Notwithstanding the provisions of any general or special law to the contrary, title to all real estate and personal property held by an abolished county for the use of its agricultural school or agricultural and technical institute is hereby transferred to the said school or institute upon the abolition of said county pursuant to this act and the board of trustees of said school or institute shall assume responsibility for the management of its real and personal property.

(d) A transition task force shall be established as of the effective date of this act, which shall manage the daily operations of said school or institute in the year prior to transfer. Said task force shall consist of the following five members: the chairman of the board of trustees, the dean, the director, the principal, and the business manager of said school or

institute. Said business manager shall serve as acting treasurer during the fiscal year prior to the county's abolition.

(e) The transition task force established pursuant to subsection (d) shall propose in consultation with the department of education a Horace Mann charter school model for said school or institute, including provisions relative to employee collective bargaining, and submit its proposal to the department of education by November 15 of the year preceding the abolition of a county government pursuant to section 1. Upon receipt of said proposal, said department shall file its comments and recommendations, and legislation necessary to carry out its recommendations, with the clerk of the house of representatives and senate, and the house and senate committee on ways and means not later than January 1 of the year in which the county will be abolished.

(f) The chairperson of the board of trustees of said school or institute serving immediately prior to the abolition of the county, shall continue to serve on the board of trustees for a term not less than two years after the effective date of this act. Thereafter, the governor may appoint said chairperson to an additional term or terms.

(g) The board of trustees of the Essex agricultural and technical institute is authorized to establish an excess and deficiency fund commencing in fiscal year 2000.

(h) The department of education is hereby authorized and directed to promulgate regulations for the operation, maintenance, improvement and development of agricultural schools of abolished counties, including:

(1) Regulations pursuant to which the department's supervisory authority with respect to said agricultural schools shall be exercised, including governance, programs, facilities, transportation and any other matters related to the appropriate operation of said schools.

(2) Regulations concerning the appropriate method for funding said agricultural schools which shall include provisions for imposing reasonable annual assessments on each city and town within the county in which said schools are located, upon each city and town in which students of the schools reside, or a combination of both. Notwithstanding the foregoing, the minimum aggregate local assessment shall be established at no less than fiscal year 1999 assessment.

(3) The regulations to be promulgated pursuant to this subsection, together with any legislation the department considers necessary for the effective supervision, operation or financing of said schools, shall be filed with the clerk of the house of representatives and senate, the joint committee on education, and with the house and senate committee on ways and means not later than January 1 of the year in which the county will be abolished. Said regulations shall take effect as of the transfer date.

(i) The associate degree program currently offered by the Essex agricultural and technical institute shall be transferred to the administration of North Shore community college. The board of trustees of said institute shall enter into a cooperative agreement with said college regarding the use of institute facilities for continued operation of said program on the campus of said institute; provided, however, that the assets of said institute that are associated with said program shall be available, at no cost, to said college; and provided,

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further, that said college shall be responsible for all compensation, including salary and benefits, of any employees of said institute employed exclusively for post-secondary education. Tuitions paid for said associate degree program shall be collected by said college.

(j) The terms of county commissioners serving as trustees of county agricultural schools shall expire as of the transfer date.

SECTION 22. Section 8 of said chapter 48 is hereby amended by adding the following two paragraphs:-

All valid leases and contracts of Hampshire county pertaining to the property and functions cited in section 1, which are in force on September 1, 1998, shall be obligations of the commonwealth as of September 1, 1998, and the commonwealth shall have authority to exercise all rights and enjoy all interests conferred upon the county by those leases and contracts except as may be otherwise provided in this section. If the Hampshire council of governments is not approved pursuant to section 30 of this act, all other valid leases and contracts of Hampshire county which are in force immediately before the county is abolished, shall be obligations of the commonwealth as of January 1, 1999, and the commonwealth shall have authority to exercise all rights and enjoy all interests conferred upon the county by leases and contracts except as may be otherwise provided in this act. If the Hampshire council of governments is approved pursuant to section 30, said other valid leases and contracts of Hampshire county which are in force immediately before the county is abolished, shall be obligations of the Hampshire council of governments as of January 1, 1999, and the council of governments shall have authority to exercise all rights and enjoy all interests conferred upon the county by leases and contracts except as may be otherwise provided in this act.

Funds held in trust by the Hampshire county government for specific charitable or program purposes, including but not limited to the Hilltown recycling program trust and the Hampshire fire defense association trust, but excluding those pertaining to the court, the office of the sheriff, or the registry of deeds, shall be transferred from the custody of the Hampshire county government to the custody of the Hampshire council of governments; provided, however, that if the Hampshire council of governments is not approved pursuant to section 30 of this act, the Hampshire county government shall, on December 31, 1998, transfer said funds to the entities for which they are held in trust. If the Hampshire council of governments is approved, but any program for which the funds are held in trust is discontinued, the Hampshire council of governments shall transfer the funds held in trust for said program to those entities for which they are held in trust.

SECTION 23. Said chapter 48 is hereby further amended by striking out section 9 and inserting in place thereof the following section:-

Section 9. For the purpose of recovering amounts expended by the commonwealth for the liabilities and other debts assumed and paid by the commonwealth on behalf of an abolished county, the secretary of administration and finance shall establish a plan to recover said amounts. Said secretary shall determine said amounts by comparing the liabilities of an abolished county assumed by the commonwealth with the assets received by the common-

wealth from said county and recovering the difference from the member municipalities of said counties. Said liabilities may include, but not be limited to, reserves appropriated by the commonwealth for payment of costs and liabilities of an abolished county, the salary of the county treasurer subsequent to the date of abolition, the amount of bonded debt paid by the state treasurer subsequent to the date of abolition, and the unfunded pension liability as of the date of abolition attributable to employees of an abolished county who transferred to the commonwealth. Said assets may include, but not be limited to, the amount of cash on hand and accounts receivable of an abolished county deemed collectible by said secretary which became assets of the commonwealth as of the date of abolition, the value of real estate of the county transferred to the commonwealth pursuant to this act, net of amounts provided to a county by the commonwealth for construction, reconstruction or improvements of such real estate and payments by the commonwealth for debt service; provided, however, that nothing in this section shall be construed as creating any subsequent commonwealth financial obligation to cities and towns. Said secretary shall establish an amortization schedule to recover any amounts so expended by the commonwealth which shall be filed with the clerks of the house of representatives and the senate not later than two months after the transfer date. Unless the general court changes said plan or schedule by law, said secretary shall proceed with implementation of said plan and schedule beginning one year after the transfer date; provided, however, that nothing herein shall preclude said assessment from being collected during the year prior to said implementation. For the duration of said schedule, the state treasurer shall, pursuant to section 20 of chapter 59 of the General Laws, assess upon each city and town within the former jurisdiction of an abolished county an amount equal to the county tax paid by each such city and town as assessed pursuant to the provisions of chapter 35 of the General Laws for the fiscal year beginning July 1 of the year immediately before the transfer date. The amount of the assessment shall be paid annually by each city or town to the treasurer of the commonwealth and shall remain in effect for the duration of said amortization schedule, which shall not exceed 25 years.

Notwithstanding the provisions of the preceding paragraph or any other general or special law to the contrary, for the purpose of recovering amounts expended by the commonwealth for the liabilities and other debts assumed and paid by the commonwealth on behalf of Hampshire, Essex, and Berkshire counties, the secretary of administration and finance shall establish a plan to recover said amounts. Said secretary shall determine said amounts by comparing the liabilities of an abolished county assumed by the commonwealth with the assets received by the commonwealth from said county and recovering the difference from the member municipalities of said counties. Said liabilities may include, but not be limited to, reserves appropriated by the commonwealth for payment of costs and liabilities of an abolished county, the salary of the county treasurer subsequent to the date of abolition, the amount of bonded debt paid by the state treasurer subsequent to the date of abolition, the unfunded pension liability attributable to former county employees of Hampshire county who retired prior to the date of abolition, and the unfunded pension liability as of the date of abolition attributable to employees of an abolished county who transferred to the common-

wealth. Said assets may include, but not be limited to, the amount of cash on hand and accounts receivable of an abolished county deemed collectible by said secretary which became assets of the commonwealth as of the date of abolition, the value of real estate of the county transferred to the commonwealth pursuant to this act, net of amounts provided to a county by the commonwealth for construction, reconstruction or improvements of such real estate and payments by the commonwealth for debt service; provided, however, that nothing in this section shall be construed as creating any subsequent commonwealth financial obligation to cities and towns. Said secretary shall establish an amortization schedule to recover any amounts so expended by the commonwealth which shall be filed with the clerks of the house of representatives and the senate not later than two months after the transfer date. Unless the general court changes said plan or schedule by law, said secretary shall proceed with implementation of said plan and schedule beginning one year after the transfer date, or in the case of Hampshire county, on September 1, 1999. For the duration of said schedule, the state treasurer shall, pursuant to section 20 of chapter 59 of the General Laws, assess upon each city and town within the former jurisdiction of Hampshire, Essex and Berkshire counties an amount not exceeding the county tax paid by each such city and town as assessed pursuant to the provisions of chapter 35 of the General Laws, and adjusted annually pursuant to section 20A of chapter 59 of the General Laws, for the fiscal year beginning July 1 of the year immediately before the transfer date. The amount of the assessment shall be paid annually by each city or town to the treasurer of the commonwealth and shall remain in effect for the duration of said amortization schedule, which shall not be less than ten years.

In the event an assessment due is not paid in accordance with this section, it shall be deducted from the cherry sheet.

SECTION 24. The second paragraph of said section 9 of said chapter 48 is hereby amended by inserting after the word "Hampden", in line 2, the following words:- , Hampshire, Essex, Berkshire.

SECTION 25. The first paragraph of section 11 of said chapter 48 is hereby amended by inserting after the words "secretary of the commonwealth", in lines 3 and 4, the following words:- on the transfer date, and, in Hampshire county, on September 1, 1998, and in Suffolk county, on July 1, 1999; provided, however, that said secretary shall have general superintendence over the Suffolk county register of deeds as of September 1, 1998.

SECTION 26. Subparagraph (b) of the second paragraph of said section 11 of said chapter 48 is hereby amended by inserting after the first sentence the following sentence:- Said employees shall include all engineering personnel employed by an abolished county immediately prior to the transfer date.

SECTION 27. Subparagraph (e) of said second paragraph of said section 11 of said chapter 48 is hereby amended by inserting after the word "equipment", in line 1, the following words:- including county engineering records.

SECTION 28. Section 12 of said chapter 48 is hereby amended by inserting after the word "county", in line 2, the following words:- and Hampshire county and the Suffolk county register of deeds.

SECTION 29. Section 13 of said chapter 48 is hereby amended by inserting after the word "date", in line 2, the following words:- , and, in Hampshire county, on September 1, 1998.

SECTION 30. Said section 13 of said chapter 48 is hereby further amended by adding the following sentence:- Said administrative and operational control shall include, but not be limited to, the procurement of supplies, services and equipment.

SECTION 31. Section 13A of said chapter 48, inserted by section 2 of chapter 55 of the acts of 1998, is hereby amended by inserting after the words "abolished county" the following words:- , or of Hampshire county after August 31, 1998.

SECTION 32. The first paragraph of section 16 of said chapter 48 is hereby amended by inserting after the words "transfer date", in line 4, the following words:- which, in the case of Hampshire county for purposes of this section, shall be September 1, 1998.

SECTION 33. Section 17 of said chapter 48 is hereby amended by inserting after the words "abolished county", in line 1, the following words:- or of Hampshire county.

SECTION 34. Subsection (a) of section 18 of said chapter 48 is hereby amended by inserting after the word "date", in line 6, the following words:- which, in the case of Hampshire county, shall be September 1, 1998 for purposes of this section.

SECTION 35. Subsection (d) of said section 18 of said chapter 48 is hereby amended by adding the following paragraph:-

As of December 1, 1998, a pro rata share of any monies in Hampshire county's employees' group insurance trust fund established pursuant to section 8A of said chapter 32B, related to the employees transferred on September 1, 1998 pursuant to the provisions of this act, shall be transferred to the Group Insurance Commission Trust Fund established pursuant to section 9 of said chapter 32A. Any monies remaining in Hampshire county's employees' group insurance trust fund established pursuant to said section 8A of said chapter 32B on March 1, 1999 shall be transferred to the Group Insurance Commission Trust Fund established pursuant to said section 9 of said chapter 32A.

SECTION 36. Subsection (e) of said section 18 of said chapter 48 is hereby amended by adding the following sentence:- For purposes of this subsection, the transfer date for Hampshire county shall be January 1, 1999.

SECTION 37. Said section 18 of said chapter 48 is hereby further amended by adding the following subsection:-

(f) On January 31, 2001, the director and trust administrator for the Hampshire county group insurance trust shall provide the group insurance commission with an accounting of the reserves and unit deposits of the claims trust fund which shall be for the two year period immediately preceding October 1, 2000 and shall include a calculation of the employee, retiree and surviving spouse contributions that are in excess of the claims costs and expenses of the plans for which the contributions were made.

SECTION 38. Said chapter 48 is hereby further amended by striking out section 21 and inserting in place thereof the following section:-

Section 21. The secretary of administration and finance shall conduct an independent

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valuation of county assets and liabilities and shall compile an inventory and provide for the valuation of all real and personal property, assets, liabilities and debts of all counties of the commonwealth for the purposes of considering the abolition of county government and the transfer of its critical functions, assets and liabilities to the commonwealth. Said secretary is hereby authorized and directed to contract for an independent audit and valuation of the total assets and liabilities of each county in the commonwealth; provided, however, that no such audit and valuation shall be conducted for the former Franklin county. Said secretary shall establish uniform criteria for conducting said audits and evaluations and shall require that the valuation of assets shall distinguish between disposable, fungible assets and assets necessary to the ongoing core functions of county government which cannot be practicably conveyed. Amounts appropriated in item 1599-9712 of section 2A of this act shall be available for the expenses of said audit and valuation. Said secretary shall file with the house and senate committees on ways and means a spending plan for amounts appropriated in said item 1599-9712 not later than September 30, 1998.

Real and personal property to be examined by said secretary shall include, but shall not be limited to, the Dukes county airport, the Norfolk county recreational facility, and hospitals, roads, beaches and courthouses owned by said counties, including courthouses of historic or architectural significance the primary tenant of which is not the trial court. Said secretary is hereby authorized and directed to report to the clerks of the house of representatives and the senate on the finances, operations, personnel and management structure of each county registry of deeds and the office of each county sheriff. Said report shall include, but not be limited to, the following: an audit for fiscal year 1997 that details revenues, expenditures, assets and liabilities in accordance with statutory accounting principles and, where possible, generally accepted accounting principles; operating budgets by expenditure type for the prior three years; revenues for the prior three years; fee structures in effect in fiscal year 1997; instrument counts for the prior three fiscal years; property and equipment leases in effect for fiscal year 1997 and fiscal year 1998, including lease terms, conditions, expiration dates and payment rates; contracts in effect for fiscal year 1997 and fiscal year 1998, including contract terms, conditions, expiration dates and rates; fiscal year 1997 facility operating costs; and a current equipment inventory.

Said report shall include an inventory of county roads so-called and an analysis of the system of care and maintenance of such roads as of the effective date of this act with an emphasis on determining whether the care and maintenance of such roads is being provided by municipalities. Municipalities that are determined to have been providing for the care and maintenance of such roads shall continue to provide such care and maintenance. The department of highways and the executive office of transportation and construction shall cooperate with said secretary in conducting said inventory and analysis. For the purpose of this analysis, said secretary may consult with the state auditor's division of local mandates.

Said report shall include an organizational chart for each such registry and sheriff's office and shall establish a personnel profile for each current employee that shall include, but not be limited to, the following information as of the date said information is compiled: an

actual and functional job title; compensation rate; collective bargaining status; accrued sick, vacation and personal days, vesting status for retirement purposes and length of service. Said report shall include the status of any collective bargaining agreements in effect as of the date said information is compiled, including contractually binding commitments not funded in fiscal year 1998 and any obligation required to be funded in fiscal year 1999. Said report shall project the likely costs to be incurred by the commonwealth in converting each such registry and sheriff's office to the personnel classification system established by chapter 31 of the General Laws.

Said report shall include an analysis of the pension funding status for each such registry and sheriff's office, including any unfunded liabilities, the funding sources for current and future pension liabilities and a projection of the cost or savings, if any, of transferring said pension liabilities to the commonwealth, including the commonwealth's pension defined benefit plan.

Said report shall include any recommendations, including legislation necessary to effectuate the orderly and cost-effective transfer to the commonwealth of the operations of any county registry or sheriff's office.

Said report shall be filed with the clerks of the house of representatives and the senate on or before February 1, 1999.

Said secretary shall further make recommendations to the governor and the general court concerning the disposition of county functions not subject to the control or management of the county sheriffs or the registers of deeds, including but not limited to their consolidation, elimination, privatization in conformity with sections 52 to 55, inclusive, of chapter 7 of the General Laws, or transfer to the commonwealth or any of its political subdivisions. All county officers and employees shall cooperate with said secretary by providing information necessary to the performance of its duties, including, but not limited to, providing inventories and lists of properties owned by the county as of the effective date of this act and acquisitions and dispositions of such property subsequent thereto. Said secretary shall establish objective criteria for the disposition or reuse of properties in possession of counties and transferred to the commonwealth by this act, and for the disposition of county functions or programs, gathering pertinent information with respect to each of the properties, functions and programs being reviewed, holding public hearings as he deems appropriate, and taking such other actions as he determines necessary. Said secretary shall prepare a specific plan for the disposition or reuse of properties and county functions or programs. Such a plan shall be included in the report to be filed on or before February 1, 1999.

Said secretary shall further report on the feasibility of retaining the registers of deeds as elected officials in each county, or retaining said registers as appointed officials subject to the general control of the state secretary.

The secretary of administration and finance in consultation with the public employee retirement administration commission shall analyze the potential cost to the commonwealth for transferring to the state retirement system, the active, inactive and retired employees of

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the county retirement systems of (1) the counties of Berkshire and Essex, (2) the former counties of Hampden, Worcester, and Middlesex, (3) and all other counties and former counties of the commonwealth. Said analysis shall evaluate the amount of liability attributable to paying the cost of benefits annually to said retired county employees and their survivors, the actuarial liability attributable to paying future benefits to said employees and retirees, and value the retirement assets of said employees and retirees which would be transferred to the state retirement system, including but not limited to, the accumulated deductions and employer contributions, including interest, credited to the accounts of members of said county retirement systems who would become members of the state retirement system. The actuary, as defined in section 1 of chapter 32 of the General Laws, shall determine the amount of the unfunded pension liability attributable to said employees and retirees, and shall establish one funding schedule scenario that shall reduce said unfunded pension liability to zero by the year 2018, and another funding schedule that shall be designed to reduce said unfunded pension liability to zero, pursuant to the provisions of section 9. Said analysis shall be filed with the house and senate committees on ways and means no later than December 31, 1998.

SECTION 39. Section 24 of said chapter 48 is hereby amended by adding the following sentence:- Said administrative and operational control shall include, but not be limited to, the procurement of supplies, services and equipment.

SECTION 40. Section 25 of said chapter 48 is hereby amended by inserting after the word "Hampden", in line 3, the following words:- , Essex, Hampshire, Berkshire.

SECTION 41. Section 26 of said chapter 48 is hereby amended by inserting after the word "Hampden", in line 2, the following words:- , Essex, Hampshire, Berkshire.

SECTION 42. Said section 26 of said chapter 48 is hereby further amended by inserting after the word "assets", in line 2, the following words:- without the prior approval of the secretary of administration and finance.

SECTION 43. Said section 26 of said chapter 48 is hereby further amended by inserting after the words "June 30, 1997", in line 4, the following words:- , or in the case of Hampshire, Essex, and Berkshire counties, after the effective date of this act.

SECTION 44. Said section 26 of said chapter 48 is hereby further amended by adding the following sentence:- The commonwealth shall guarantee the county payrolls of abolished counties until the transfer date only if said counties timely pay their pension and health and welfare trust fund contributions, avoid deficit spending, and avoid depletion of their reserves prior to the transfer date.

SECTION 45. Said chapter 48 is hereby further amended by adding the following eight sections:-

Section 28. Notwithstanding the provisions of chapter 32 of the General Laws or any general or special law to the contrary, the retirement system of a county abolished pursuant to this act, or abolished pursuant to chapter 151 of the acts of 1996, shall continue pursuant to this section and shall be managed by the retirement board as provided in this section beginning on the transfer date.

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(a) A contributory retirement system established for any abolished county operating under the terms of sections 1 to 28, inclusive, of said chapter 32 shall be known as a regional retirement system, and all business shall be transacted under a name designated by the board bearing the title of the geographic location of said system.

(b) Said system shall be managed by a retirement board which shall have the general powers and duties set forth in subdivision (5) of section 20 of chapter 32 of the General Laws. Said system shall be managed by a retirement board which shall have the general powers and duties set forth in subdivision (5) of section 20 of chapter 32 of the General Laws. Said board shall consist of five members as follows: the first member shall be the county treasurer as of the effective date of this act, who shall serve as chairman; a second member who shall be a member of the regional retirement board advisory council and who shall be elected by a majority of those present and voting at a public meeting of said council, properly posted, called specifically for such election pursuant to paragraph (g); a third and fourth member, hereafter referred to as elected members who shall be elected pursuant to paragraph (h); and a fifth member who shall not be an employee, retiree or official of the governmental unit of which are the members of the system and who shall be chosen by the other four members and serve for a term of five years. In case of a vacancy in the position of first member, the position shall be chosen by the other four members. If the first member is not chosen by the other four members within 30 days of the vacancy, the public employee retirement administration commission shall appoint the first member. In case of a vacancy in the position of the fifth member, the fifth member shall be chosen by the other four members. If the fifth member is not chosen by the other four members within 30 days, the public employee retirement administration commission shall appoint the fifth member.

Notwithstanding the preceding paragraph, or any other general or special law to the contrary, for purposes of this section, the provisions governing the Hampshire regional retirement system shall be as follows: Said system shall be managed by a retirement board which shall have the general powers and duties set forth in subdivision (5) of section 20 of chapter 32 of the General Laws. The board shall consist of five members as follows: one member of the retirement board advisory council who shall be selected by a majority of those present and voting at a public meeting of the council, properly posted, called specifically for an election pursuant to paragraphs (d) and (h) of this section, who shall serve as chairman; a second member selected by the Hampshire retirement board advisory council by a majority of those present and voting at a public meeting of the council, properly posted; a third and fourth member hereinafter referred to as the elected members; and a fifth member who shall not be an employee, a retiree or official of a governmental unit the employees of which are members of the system. The fifth member shall be chosen by the other four for a term of three years. If the fifth member is not chosen by the other four members within 30 days after the expiration of the term of the fifth member, the public employee retirement administration commission shall appoint the fifth member. The election of the elected members shall be conducted in accordance with the provisions of paragraph (h) of this subsection.

Except in Hampshire county, the term of the current elected member who was elected

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pursuant to chapter 306 of the acts of 1996 shall expire on January 1, 2002; the term of the previously elected current member shall expire on January 1, 2000; the term of the current regional retirement board advisory council member shall expire on January 1, 2001; and the term of the current chairman shall expire on January 1, 2003.

The elected members shall be active or retired members of the regional retirement system or one whose retirement is being reimbursed by that system in accordance with the provisions of paragraph (c) of subdivision (8) of section 3 of chapter 32 of the General Laws. Each member of the board shall continue to serve in office until the expiration of his term, and the qualification of his successor. Upon the expiration of the term of office of any elected or appointed member, or in the event of a vacancy in either of said offices, his successor shall be elected as aforesaid for a term of three years, or for the unexpired portion thereof, as the case may be.

In Essex county, the regional retirement board may require the Essex county treasurer as of the effective date of transfer to serve as a full time employee of the retirement board in the capacity of chief executive officer of the Essex regional retirement system for the duration of his term as elected county treasurer. Thereafter, his continued employment and compensation shall be at the sole discretion of the regional retirement board.

(c) The members of a regional retirement board shall be compensated in an amount to be determined by the board but not to exceed the amounts set forth in subdivision (6) of section 20 of chapter 32 of the General Laws. Except in Hampshire county, the salary of the county treasurer shall be transferred from the commonwealth to the retirement system of which he is chairman or chief executive officer, and the county treasurer's office shall be abolished pursuant to section 3. The chairman shall be compensated in amount to be determined by the board.

(d) The retirement board may employ clerical and other assistants as may be required to transact the business of the retirement system. All permanent employees employed pursuant to this paragraph shall be members of the retirement system, but shall not be eligible to be a member or candidate for election to the retirement board.

(e) A regional retirement board shall be authorized to purchase or lease property, facilities and equipment and employ any such personnel necessary for the proper administration and transaction of business of the retirement system.

(f) The board of any such regional retirement system and the chairman thereof shall respectively be and act as the board and treasurer-custodian of such system with respect to the employees of any town or district who become members of such system as provided for in paragraph (3)(b), (3)(c) or (4)(b) of section 28 of chapter 32 of the General Laws, or who have become members thereof under corresponding provisions of earlier laws. The treasurer or other disbursing officer of any such town or district, as the case may be, shall act as a liaison officer between the employees thereof and the board of such system.

(g) There shall be a regional retirement board advisory council consisting of all the treasurers, elected or appointed, of each town, unit, or district belonging to the prior county retirement system and remaining in the retirement system established by this section. The

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members of said advisory council shall elect a chairman from among the members. Said council shall meet at the call of the chairman, but in no event less than twice in each year. Said council shall supervise and certify the procedures involved in the election of the elected members of the retirement board, as provided in paragraphs (b) and (h). Upon certification by the retirement board and the council, the actuary shall be furnished with an estimate of the expenses and costs of administration of the system for the ensuing year. The actuary shall, on or before December fifteenth in each year, specify by written notice to the council and the board the amounts so required to be paid from the pension fund, the annuity reserve fund, the military service fund, and the administration fund, as provided in subdivision (7) of section 22 of chapter 32 of the General Laws. The actuary shall also advise and determine the amounts to be allocated to each governmental unit for the aforementioned amounts. The regional retirement board advisory council, at a meeting called specifically for that purpose, shall elect one of its members as a member of the regional retirement board at the expiration of the current appointed member's term, as provided in paragraph (e).

(h) The regional retirement board advisory council, which shall serve as the election board, shall supervise the election of the elected members of the retirement board. The council shall make available nomination papers to any member in or retired from service so requesting and shall require that such nomination papers be signed by the candidate, and returned to the office of the retirement board for safekeeping until the election board shall meet. The chairman of the council shall give a duplicate receipt for such nomination papers to each candidate. Completed nomination papers shall contain the signatures and addresses of at least five active or retired members of said retirement system. The election board shall determine whether each candidate has filed nomination papers containing the requisite signatures and addresses. If, after investigation, the election board determines that a candidate has filed nomination papers containing less than five signatures as required, the election board shall declare said nomination papers invalid and shall notify the candidate of such determination. If, after investigation, the election board determines that only one candidate has filed the requisite number of signatures, the election board shall declare said candidate to be the elected member of the county retirement board. If, after investigation, the election board determines that more than one candidate has obtained the requisite number of valid signatures, the election board shall notify said candidates of such determination and shall immediately prepare election ballots, and set the date for an election to be held within 40 days.

The election board shall mail ballots to all members of the retirement system, whether active or retired. The election board shall instruct each member to place an appropriate marking on the face of the printed ballot next to the name of one candidate, insert said ballot into a ballot envelope and said ballot envelope into the pre-stamped envelope, seal said pre-stamped envelope and mail said envelope to the election board in care of the county retirement board, within 20 days after they were mailed. Any envelope postmarked later than 20 days after such mailing shall not be used to determine the elected member. The election board shall notify each candidate of the time and location of the tabulation of the ballots and

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shall permit all such candidates to be present at said tabulation. At the specified time for tabulation, the election board shall assemble all envelopes and inspect said envelopes. Any envelope which has been opened prior to said date, or which has not been signed on the rear by the appropriate addressee shall be invalidated and shall not be used to determine the elected member. The election board shall assemble all property signed, unopened envelopes and shall open each envelope and separate the enclosed ballot from said envelope. The election board shall assemble all ballots and shall tabulate the vote for each candidate. Any ballot which contains a marking for more than the number of vacancies shall be declared invalid.

The election board shall notify each candidate in writing of the results of said election. All envelopes and ballots received by said election board, including those determined to be invalid, shall be preserved by the election board for two years. The costs incurred by the election board in administering the election shall be paid from the county retirement system administration fund.

(i) The group insurance commission shall make available to employees of a regional retirement board health, life and disability benefits, and said employees shall be eligible to participate in all benefits administered by the group insurance commission. The costs thereof, including any administrative costs incurred by the group insurance commission shall be borne by said employees and the regional retirement system.

(j) An employer shall be required to provide a board member under its employ with all necessary leave required for service to such board. A board member who is an active member of a contributory retirement system shall receive creditable service for such periods the member is so serving.

(k) The abolished county's retirement board and retirement board advisory council shall continue to serve until such time as the members of the new retirement board and the new retirement board advisory council pursuant to this section have been duly elected, selected, or appointed, as the case may be.

(l) Any provisions of chapter 32 of the General Laws that are not inconsistent with the provisions of this act shall apply to a regional retirement system.

Section 29. Notwithstanding the provisions of any general or special law to the contrary, an abolished county's employees who retired on or before the transfer date, shall be members of the regional retirement system, which shall pay the cost of benefits annually to such retired county employees and their survivors. Said system shall be responsible for the accrued pension liability attributable to the service of such retirees. The employees of an abolished county who become state employees pursuant to the provisions of this act or any subsequent act abolishing any county, shall become members of the state retirement system, and notwithstanding the provisions of any general or special law to the contrary, said system shall be responsible for all liability attributable to the service of such employees. Said liabilities attributable to the service of such employees shall be recoverable by the commonwealth pursuant to the terms of section 9 of this act. The accumulated deductions and employer contribution, including interest, credited to the accounts of members of an abolished county's

retirement system who become members of the state retirement system pursuant to this act or any subsequent act abolishing any county shall be transferred from such abolished county's retirement system and credited to such members' accounts in the state retirement system in a manner prescribed by the secretary of administration and finance.

Said secretary shall assess every city and town within an abolished county for the accrued pension liability attributable to county employees who retired on or before the transfer date and forward such assessment to the appropriate regional retirement system.

Notwithstanding the provisions of any general or special law to the contrary, Hampshire county employees who retired on or before the transfer date, shall become members of the state retirement system, which shall pay the cost of benefits annually to such retired county employees and their survivors, and notwithstanding the provisions of any general or special law to the contrary, said system shall be responsible for the accrued pension liability attributable to the service of such retirees. The employees of Hampshire county who become state employees pursuant to the provisions of this act or any subsequent act abolishing any county, shall become members of the state retirement system, and notwithstanding the provisions of any general or special law to the contrary, said system shall be responsible for all liability attributable to the service of such employees. Said liabilities attributable to the service of such employees and retirees shall be recoverable by the commonwealth pursuant to the terms of section 9 of this act. The accumulated deductions and employer contribution, including interest, credited to the accounts of members of Hampshire county's retirement system who become members of the state retirement system pursuant to this act shall be transferred from Hampshire county's retirement system and credited to such members' accounts in the state retirement system in a manner prescribed by the secretary of administration and finance.

Section 30. (a) A city or town within or contiguous to an abolished county, which accepts the provisions of this section by vote of the city council with the approval of the chief executive officer or by vote of the town meeting, may enter into agreement to join a regional charter commission. Each city or town electing to join said commission shall send a representative, and said commission shall convene and shall develop a charter proposal recommending (i) a structure, including organization and method of selecting members for said regional council of government and (ii) provision for the method of determining approval of the charter proposal in said cities and towns; provided, however, that said charter shall be adopted and binding only on those cities and towns where a majority of voters approve it. The charter shall also include provisions for towns to enter or leave participation in the council of governments. Said charter shall be placed before the voters in an election. The charter shall also include a method of determining approval of any increase or decrease in the county assessment authorized in subsection (i) of this section, but such method shall include approval of such increase or decrease by the member municipalities of the council of governments in a popular vote. The charter may provide that a council of governments shall retain any powers previously conferred upon the county and its county commissioners and shall have any additional powers authorized by this section; provided, however, that said

councils shall not retain any power concerning functions transferred to the commonwealth under sections 1 or 5 of this act, retain power to levy a county tax, or retain powers specifically denied under this section. Said charters must be approved by July 1, 1999; provided, however, that if two or more member municipalities within Berkshire county do not form a regional charter commission prior to July 1, 1999, then the transfer date for said county shall be July 1, 1999.

(b) Notwithstanding subsection (a), the following provisions shall apply to Hampshire county. The Hampshire county commissioners shall submit to the voters of the county the proposed charter approved by said commissioners. The state secretary shall cause the question of adopting said charter, and a summary thereof prepared by the attorney general, to appear on the biennial state election ballot in November 1998 in Hampshire county. Said charter shall take effect on January 1, 1999, if approved by a majority of the voters voting on said question, and towns wherein a majority of the voters voting thereon approve shall become members of the Hampshire council of governments. The Hampshire council of governments shall retain any powers previously conferred upon Hampshire county and its county commissioners; provided, however, that said council shall not retain any power concerning functions transferred to the commonwealth under sections 1 or 5 of this act, retain power to levy a county tax, or retain powers specifically denied under this section or under the charter. Upon approval of the new charter, the county commission of Hampshire county shall become known as the council of governments and each municipally elected official serving on the council may serve until the end of the current term to which elected as a county commissioner or until a successor council official is elected in that municipality. The council shall organize as provided by the newly approved charter. The executive committee shall have the powers of selectmen under sections 52 and 56 of chapter 41 of the General Laws. Notwithstanding any general or special law to the contrary, if said charter is approved, the county treasurer, appointed by the county administrator under the prior county charter, shall, on January 1, 1999, become known as the director of finance for the council of governments, and shall have the powers and duties of a municipal treasurer under section 35 of chapter 41 and under sections 54, 55, and 55A of chapter 44 of the General Laws. The director of finance shall be a member of the county retirement system advisory board with all the rights, privileges, and duties as other members of the advisory board.

(c) Upon approval of the new charter, the county commission of a county shall become known as the council of governments and each municipally elected official serving on the council may serve until the end of the current term to which elected as a county commissioner or until a successor council official is elected in that municipality. The council shall organize as provided by the newly approved charter. The executive committee shall have the powers of selectmen under sections 52 and 56 of chapter 41 of the General Laws.

(d) The council of governments may accept or participate in any grant, donation or program available to any political subdivision of the commonwealth, and may also accept or participate in any grant, donation, or program made available to counties by any other governmental or private entity.

(e) Notwithstanding the provisions of any special or general law to the contrary, any political subdivision of the commonwealth may enter into agreement with the council of governments to perform jointly or for the other, or in cooperation with other entities, any service, activity or undertaking which the political subdivision is authorized by law to perform. For the term of the agreement and subject to the terms thereof, the council of governments shall be authorized to perform the service, activity or undertaking and may designate appropriate representatives to oversee the performance, provided that the functions and duties of the representative or representatives are set forth in the agreement.

(f) The parking provisions of chapter 90 of the General Laws shall apply to the parking areas subject to the control of the council of governments, and the council shall have the powers and duties of that chapter as they apply to parking.

(g) A regional council of government established pursuant to this section may administer and provide regional services to cities and towns and may delegate such authority to sub-regional groups of such cities and towns. Regional councils of government may enter into cooperative agreements with regional planning commissions or may merge with such commissions to provide regional services.

(h) Regional services provided to member municipalities shall be determined by each regional council of government and may include, but are not limited to, the following services: engineering, inspectional services and planning, economic development, public safety, emergency management, animal control, land use management, tourism promotion, social services, health, education, data management, regional sewerage, housing, computerized mapping, household hazardous waste collections, recycling, public facility siting, coordination of master planning, vocational training and development, solid waste disposal, fire protection, regional resource protection, regional impact studies, and transportation.

(i) For the purpose of organizing and administering in the county or a portion of the county a cooperative or regional entity to provide, purchase or otherwise make available services on a regionalized basis, the council of governments may impose a regional assessment as set forth in the charter submitted to the voters and approved by said voters pursuant to this section. The regional assessment shall be allocated among the members of the council of governments in proportion to their respective equalized valuations as reported to the general court by the commissioner of revenue in accordance with section 10C of chapter 58 of the General Laws. The regional assessment shall be based upon the budget adopted by the council of governments, net of estimated revenues. The regional assessment shall be retained by the council of governments and shall be used for the purpose of providing regional or municipal services or programs, or planning, organizing and administering such services or programs, and maintaining county property in connection with said services or programs, under the authority granted herein.

(j) The council of governments may increase or reduce the regional assessment on each member municipality from the base year of fiscal year 1999, subject to the limits of sections 20A and 21C of chapter 59 of the General Laws.

(k) The council of governments may incur temporary debt in anticipation of revenue

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for a term not to exceed one year, with the approval of a majority of the council of governments. The temporary debt shall not exceed one-half of the amount of the council of governments assessment under subsection (h) of this section. Sections 16 to 19, inclusive, and sections 21 to 22C, inclusive, of chapter 44 of the General Laws shall, so far as possible, apply to debt issued under this section.

Section 31. The secretary of administration and finance, in consultation with the comptroller, the state secretary, the judiciary, and such other departments of the commonwealth as may be necessary or appropriate, is hereby authorized and directed to make such plans and arrangements as may be necessary to ensure the effective transfer of county functions to the commonwealth pursuant to this act.

Section 32. The Hampshire council of governments, if approved and established pursuant to section 30, shall submit annually to the division of local services audited financial statements and budget projections for the Hampshire Care nursing facility. Notwithstanding the provisions of section 7, the Hampshire council of governments shall sell said Hampshire Care nursing facility if the county government finance review board determines that either of the following conditions has been met: (a) the Hampshire Care nursing facility accrues a total deficiency of 50 per cent or more of the fair market value of the property and facility as determined by an independent assessor recommended by the division of local services and approved by said regional services entity; or (b) said facility fails to eliminate its total deficiency within three years after the effective date of this section.

Section 33. Notwithstanding the provisions any general or special law to the contrary, the municipalities of an abolished county shall be deemed to have accepted the provisions of section 147A of chapter 140 of the General Laws, and shall enact by-laws to provide for the functions performed by the abolished government of a county with respect to dogs pursuant to sections 136A to 174D, inclusive, of said chapter 140, as of July 11, 1997. The balance of funds remaining in the dog fund of an abolished county as of the transfer date shall be disbursed forthwith by the state treasurer in the manner prescribed by section 172 of said chapter 140 to the treasurer of each city and town, who shall maintain a separate dog fund consistent with the by-laws adopted by the city or town and said sections 136A to 174D, inclusive, of said chapter 140.

Section 34. Notwithstanding the provisions of any general or special law to the contrary, a regional council of governments or any organization established by a regional council of governments for the benefit of two or more entities within said council of governments, or a sheriff's department or subdivision thereof, shall be entitled to purchase goods and services from a vendor located within the geographic area comprising such regional council of governments, or in the case of a sheriff's department, the primary geographic area served by such sheriff's department, even if such vendor is not under contract with the commonwealth to provide such goods and services; provided, however, that the costs for any such goods or services purchased from a local vendor shall not exceed the amount that would be paid for such goods and services if such goods and services were to be purchased from a vendor that is under contract with the commonwealth to provide such goods and services.

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Section 35. Hampshire county or its successor regional council of government shall be given a grant of \$950,000 by the commonwealth on or before August 1, 1998. Notwithstanding any general or special law to the contrary, the provisions of this act shall supercede the written memorandum of understanding between the Hampshire county commissioners and the secretary of administration signed and by the parties thereto in June, 1998.

This bill was returned on August 13, 1998, by the Lieutenant Governor-Acting Governor to the House of Representatives, the branch in which said bill was originated, with his objections in writing to the following items therein:

Items Disapproved:

SECTIONS 1, 14, 24, 26, 27 and 45

The remainder of the bill was approved by the Lieutenant Governor-Acting Governor on August 13, 1998 at four o'clock and five minutes, P.M.

Chapter 301. AN ACT AUTHORIZING THE ESTABLISHMENT OF THE SOUTH SHORE TRI-TOWN DEVELOPMENT CORPORATION.

Be it enacted, etc., as follows:

SECTION 1. It is hereby found that the closure of the Naval Air Station hereinafter referred to as NAS South Weymouth by the United States Government in September of 1997 is detrimental to the economic welfare of the citizens of the commonwealth and, in particular, the towns of Abington, Rockland and Weymouth. The closure of this military installation imposes upon the commonwealth and its citizens an increased fiscal burden in addition to that incurred by the commonwealth on account of the closure of various other military installations in the commonwealth. It is of considerable importance that the approximately 1,500 acres encompassing the NAS South Weymouth be acquired expeditiously by an entity empowered to fully redevelop the property for the benefit of the towns of Abington, Rockland and Weymouth, the region and the commonwealth. Because the base is located in three different jurisdictions, its orderly redevelopment will depend on the formulation of a comprehensive, consensus Reuse Plan and implementation of uniform redevelopment policies for the property. It will be necessary to establish incentives to attract private businesses to locate and expand their operations at NAS South Weymouth, including providing those businesses with tax incentives and relief from inconsistent land use controls. Therefore, it is the purpose of this act to promote the expeditious and orderly conversion and redevelopment of NAS South Weymouth for nonmilitary purposes, including, but not limited to, commercial, housing, industrial, institutional, educational, governmental, recreational, con-

servation, or manufacturing uses in order to prevent blight, economic dislocation and additional unemployment, and to aid and strengthen the local economy, the regional economy and the economy of the commonwealth. In order to achieve these objectives, it is deemed necessary and appropriate to establish a public corporation with full powers and authority to carry out the purposes of this act.

SECTION 2. It shall be the goal of this act to promote the expeditious acquisition and redevelopment of NAS South Weymouth while addressing the economic, social, and environmental needs of the region. This goal shall be accomplished in a manner consistent with the consensus Reuse Plan prepared by the Naval air station planning committee and approved by a majority vote of the town meetings of the towns of Abington, Rockland and Weymouth, on March 23, 1998, March 16, 1998 and March 4, 1998, respectively, and approved by the commonwealth and the United States Department of Defense. The passage of this act shall constitute said approval of the commonwealth. The Reuse Plan is intended to significantly stimulate economic activity and jobs on the base property while protecting the environment and enhancing the quality of life in the region. Said redevelopment is designed to minimize and mitigate negative off-base impacts on the area such as those on water resources, air quality, traffic and noise, limiting the impacts to those necessary to achieve community reuse goals and objectives. Said redevelopment shall be integrated with the United States government's cleanup of hazardous materials on the base to ensure effective, expeditious and efficient environmental remediation and protection of public health and welfare in accordance with federal and state law and regulation.

SECTION 3. There is hereby created a body politic and corporate, to be known as the South Shore Tri-Town Development Corporation, to carry out the provisions of this act. Said corporation is hereby deemed to be a public instrumentality, and the exercise by said corporation of the powers conferred by this act shall be deemed and held to be the performance of public functions. The primary purpose of said corporation is to secure the redevelopment of NAS South Weymouth to the greatest benefit of the towns of Abington, Rockland and Weymouth. Accordingly, said corporation shall be guided in its financing activities with the goal of maximizing the fiscal benefit to said towns stemming from the redevelopment from a long term perspective. In addition, it shall be the goal of said corporation, during its existence, to pursue the redevelopment in a manner that imposes no costs on said towns for the provision of police and fire protection, emergency services, water and sewer, and other municipal services. Finally, said corporation shall, to the maximum extent feasible and consistent with the Reuse Plan and zoning by-laws, dispose of all of the property within the NAS South Weymouth Redevelopment Area through sale prior to said corporation's termination as provided in section 31.

SECTION 4. As used in this act, the following words shall, unless the context requires otherwise, have the following meanings:-

(a) "Bank" or "Government land bank", the government land bank, established by chapter 212 of the acts of 1975, or its successors.

(b) "Board", the board of directors of the South Shore Tri-Town Development Corp-

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oration established by section 8.

(c) "Central redevelopment area", the central portion of the NAS South Weymouth Redevelopment Area as specifically defined in the Reuse Plan and zoning by-laws within which the corporation shall have full and exclusive administration of zoning, licensing, inspection and permitting authority for the implementation of and in accordance with the Reuse Plan and zoning by-laws.

(d) "Corporation", the corporation established by section 3.

(e) "Naval air station planning committee" or "committee", established by governor's Executive Order No. 378, dated September 20, 1995, for the purpose of preparing a Reuse Plan for the redevelopment of NAS South Weymouth, the committee comprised of 33 representatives including the commonwealth, Norfolk and Plymouth counties, the towns of Abington, Rockland, Hingham and Weymouth and other entities, including elected officials of the general court representing the communities that host NAS South Weymouth.

(f) "NAS South Weymouth", the Naval Air Station South Weymouth, a former military base of that name which was disestablished in accordance with the recommendation of the 1995 Base Realignment and Closure Commission, pursuant to 10 USC 2687, as amended.

(g) "NAS South Weymouth Region", the municipalities within the commonwealth described as follows: (a) the towns as defined in this act, (b) all municipalities contiguous to the towns, and (c) all municipalities with the exception of the city of Boston contiguous to the municipalities in subsection (b).

(h) "NAS South Weymouth Redevelopment Area", the lands, including all easements, reservations and rights appurtenant thereto, and all buildings, structures, utilities and improvements located thereon comprising all of the former military base of that name presently located in the towns of Abington, Rockland and Weymouth and within the ownership, control and jurisdiction of the United States, including those portions of the base property transferred as of the effective date of this act or to be transferred at some future date to the United States Coast Guard and Federal Aviation Administration pursuant to the federal screening process. The NAS South Weymouth Redevelopment Area shall be comprised of a Central Redevelopment Area and Perimeter Area.

(i) "Perimeter area", the outer portions of the NAS South Weymouth Redevelopment Area as specifically defined in the Reuse Plan and zoning by-laws within which each town shall have full and exclusive administration of zoning, licensing, inspection and permitting authority for the implementation of and in accordance with the Reuse Plan and zoning by-laws in its respective sector of the NAS South Weymouth Redevelopment Area.

(j) "Project", the development, improvement, construction, expansion, reduction, destruction, renovation of all real property and buildings, structures and utilities, and all programs, services, systems and other activities associated therewith, located on, conducted within or otherwise directly associated with the NAS South Weymouth Redevelopment Area.

(k) "Reuse Plan and zoning by-laws", the Reuse Plan and implementing zoning by-laws for the redevelopment of NAS South Weymouth prepared by the Naval air station

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planning committee pursuant to governor's Executive Order No. 378, dated September 20, 1995, and approved by the towns pursuant to section 13. The purpose of the Reuse Plan and zoning by-laws is to establish redevelopment objectives, policies and standards to guide public and private decision-making and investment and to ensure the maintenance of quality of life and the protection of natural resources.

(l) "Secretary", the secretary of the executive office of administration and finance.

(m) "Town", any one of the towns of Abington, Rockland or Weymouth, within the corporate boundaries in which NAS South Weymouth is located.

(n) "Towns", the towns of Abington, Rockland and Weymouth.

SECTION 5. The NAS South Weymouth Redevelopment Area is hereby created. Plans and descriptions detailing the precise boundaries and configuration of said NAS South Weymouth Redevelopment Area, including the precise boundaries of the land of the former NAS South Weymouth which is to be transferred to the United States Coast Guard and Federal Aviation Administration, the precise boundaries of the land of each town located within the NAS South Weymouth Redevelopment Area and the precise boundaries of the central redevelopment area and perimeter area, shall be prepared by the corporation, reviewed by the boards of selectmen of the towns, and filed with the secretary and recorded in the Plymouth county registry of deeds and the Norfolk county registry of deeds. Said filings shall take place within 180 days of the effective date of this act.

SECTION 6. The corporation shall have all of the powers necessary or convenient to carry out the purposes and provisions of this act, including the power to:-

(a) sue and be sued in all courts and to initiate or participate in actions and proceedings, whether judicial, administrative, arbitratative or otherwise;

(b) have a seal and to alter such seal at its pleasure and to use it by causing it or a facsimile to be affixed or impressed or reproduced in any manner;

(c) own, manage, operate, convey, or lease facilities for distribution of public utilities including, but not limited to, electricity, gas, water, sewer, telecommunications, and cable services, and to own, manage, operate, or lease the production plant for steam that is located at NAS South Weymouth;

(d) develop, own, manage, operate, or lease wells to procure water from productive aquifers underlying the NAS South Weymouth Redevelopment Area in accordance with the provisions of sections 38 and 39A of chapter 40 of the General Laws; provided, however, that the procurement of such water does not diminish the supply of water available to any of the towns;

(e) make and execute agreements with one or more of the towns or other appropriate public or private agencies and entities for the provision of police, fire, emergency medical and other municipal services within the NAS South Weymouth Redevelopment Area; provided, however, that preference in the provision of such municipal services shall be given to the town in which the portion of the NAS South Weymouth Redevelopment Area receiving such municipal services is located;

(f) exercise the power of eminent domain within the Central Redevelopment Area

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only, as provided in chapters 79, 79A, 80, and 80A of the General Laws;

(g) appoint, prescribe the qualifications and fix the compensation of corporate officers, agents, and employees, and to pay the same out of funds of said corporation;

(h) appoint legal counsel and to fix compensation for such services rendered to the corporation;

(i) employ or retain as independent contractors, architects, engineers, attorneys, accountants, and such other advisors and employees, consultants, and agents as may be necessary in its judgment, without regard to any personnel or civil service law or rule of the commonwealth or the requirements of chapter 7 of the General Laws, to prescribe their duties and qualifications, and to fix and pay their compensation, if any;

(j) appoint qualified boards and individuals in addition to the advisory board established pursuant to section 10, to serve as unpaid advisors under such terms and conditions as it may deem necessary. Such boards and individuals may be reimbursed for incidental expenses determined by said corporation to be necessary and incurred while performing the business of said corporation;

(k) acquire, hold, and dispose of personal property within the NAS South Weymouth Redevelopment Area for its corporate purposes;

(l) purchase, receive, take by grant, gift, devise, bequest, lease, or otherwise acquire, own, hold, improve, employ, use or otherwise manage real property or any interest therein, whether tangible or intangible, for its purposes, located within the NAS South Weymouth Redevelopment Area, except for any federally owned property of the former NAS South Weymouth which is to be or has been transferred to the United States Coast Guard and Federal Aviation Administration; provided further, that when said property is declared to be surplus to the needs of the United States government, said corporation is hereby authorized to obtain any and all like interest in said property as described herein;

(m) sell, convey, lease, exchange, transfer, or otherwise dispose of, or mortgage, pledge, or create a security interest in all or any of its real or personal property or any interest therein, using such procedures as are adopted by said corporation; provided, however, that any such transaction consummated in fulfillment of the obligations of the committee assumed by said corporation under clause (iii) of paragraph (b) of section 7 shall be exempt from the provisions of any of the public bidding and procurement requirements applicable to bodies politic and corporate of the commonwealth imposed by general or special law, including, without limitation, the requirements of chapter 7 of the General Laws and regulations promulgated thereunder governing the division of capital planning and operations; and provided, further, that said corporation may, pursuant to an affirmative vote and by either stating the public convenience and necessity therefore or by determining that consideration in excess of fair market value is being paid theretofore or furnished in connection therewith, exempt any other such transaction from the provisions of such requirements;

(n) apply for and, for the purposes of this act, accept gifts, loans, grants of property, funds, money, materials, labor, supplies, or services from the United States government or

its departments or agencies or from any agency of the commonwealth or any political subdivision thereof, or any other person, or make agreements with respect to any such gifts, loans, or grants, and to do any and all things necessary, useful, desirable, or convenient in connection with procuring, accepting, or disposing of such gifts, loans, or grants;

(o) purchase, take, receive, subscribe for, or otherwise acquire, hold, make a tender offer for, vote, employ, sell, lend, lease, exchange, transfer or otherwise dispose of, mortgage, pledge or grant a security interest in, use or otherwise deal in and with, bonds and other obligations, shares or other securities or interests therein issued by others, whether engaged in a similar or different business or activity;

(p) make and execute agreements, contracts, project labor agreements and other instruments necessary or convenient in the exercise of the powers and functions of said corporation under this act, including contracts with any person, firm, corporation, municipality, commonwealth agency, governmental unit, or other entity, foreign or domestic;

(q) assess and collect taxes within the NAS South Weymouth Redevelopment Area in order to generate revenues to pay the cost of operations of said corporation, maintenance of the property and the construction and maintenance of infrastructure improvements within or associated with the NAS South Weymouth Redevelopment Area in accordance with the Reuse Plan and zoning by-laws approved by the towns, including the funding provisions thereof, and to enter into agreements with the towns to distribute excess revenues not devoted to the costs described in this paragraph in accordance with section 17. In connection with the foregoing, said corporation shall have all the powers and authority of assessors and collectors established pursuant to chapters 59 and 60 of the General Laws, except that said corporation shall establish tax rates for residential uses for the land areas of the three towns located within the boundaries of the NAS South Weymouth Redevelopment Area which are equal to the residential tax rates then applicable in each of the towns. Said corporation shall, as soon as practicable following any change in the residential tax rate of any one of the towns, change the residential tax rate for the land area of that town located within the NAS South Weymouth Redevelopment Area, so that such residential tax rates remain equivalent;

(r) administer land use and zoning controls and zoning, subdivision, licensing, inspection, and any and all other municipal permitting, licensing, and inspection activities within the Central Redevelopment Area as defined for such administration in the Reuse Plan and zoning by-laws approved by the towns, and to enter into agreements with the towns whereby any such activities which said corporation may determine are more effectively administered by the towns shall be within the towns' administration subject to the towns' agreement to enter into such agreements. Except as otherwise expressly provided in the zoning by-laws approved by the towns under section 13, (a) in the administration of the activities authorized under this section in the Central Redevelopment Area, said corporation shall have the authority to take action and to issue permits, approvals, licenses, orders, determinations and other entitlements in accordance with the procedures and standards from time to time applicable to municipalities and their boards, commissions and agencies so authorized to take such action or to issue any such permit, approval, license, order, determin-

ation or other entitlement under the provisions of the General Laws; and (b) all such actions, including a failure to take action, and such permits, approvals, licenses, orders, determinations, and other entitlements shall have the legal effect and duration as provided in such General Laws. Upon termination of said corporation under section 31, the authority to administer such activities shall be vested in the towns in accordance with the provisions of the General Laws, but no action or inaction of or permit, approval, license, order, determination or entitlements issued by said corporation prior thereto or any activity undertaken or improvement made in accordance therewith shall be affected thereby. Any and all municipal powers which do not involve the administration by said corporation of such land use and zoning controls and zoning, subdivisions, licensing, permitting, or inspection activities shall remain with the towns in which the applicable real property is located unless expressly granted to said corporation in this act or elsewhere;

(s) issue a maximum of 20 alcoholic beverage licenses within the NAS South Weymouth Redevelopment Area in accordance with chapter 138 of the General Laws and the Reuse Plan and zoning by-laws; provided, however, that said licenses shall not diminish the number of licenses permitted by the commonwealth to be granted by the towns. Said licenses shall be limited as follows: (i) 12 licenses shall be available for issuance to qualified applicants operating sit-down restaurants and associated bar areas and bars located within and as part of hotels, function halls, conference centers, public and private social and recreational clubs, shopping centers and related entertainment venues and cinemas, and (ii) one license shall be available for issuance to a qualified applicant operating a clubhouse or like facility associated with a golf course if one is established in the NAS South Weymouth Redevelopment Area; provided, further, that none of the remaining seven alcoholic beverage licenses may be issued by said corporation to any applicant for any of the purposes authorized by this subsection unless said corporation first requests and receives approval of the boards of selectmen of the towns to issue one or more of said licenses; provided, further, that none of the licenses authorized by this section shall be transferable outside the NAS South Weymouth Redevelopment Area. Said corporation shall also have the authority to issue entertainment licenses as it deems necessary and appropriate;

(t) borrow money at such rate or rates of interest as said corporation may determine; to issue its notes, bonds, or other obligations to evidence such indebtedness, and secure any of its obligations by mortgage or pledge of all or any of its property or any interest therein, tangible or intangible, whether then owned or thereafter acquired;

(u) arrange for guaranties of its notes, bonds, or other obligations by the federal government, the commonwealth, the towns or by any private insurer or otherwise, and to pay any premiums therefor;

(v) issue such short and long term notes, bonds, or other obligations, whether or not the income therefrom to the holders is exempt from taxation;

(w) purchase notes, bonds, or other obligations of the corporation at such price or prices, in such manner, and upon such terms, as the corporation may determine;

(x) invest and reinvest its funds, and to take and hold property as security for the pay-

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ment of funds so invested, subject to the same restrictions and safeguards which are applicable to the management and investment of public monies pursuant to section 55 of chapter 44 of the General Laws;

(y) procure insurance against any loss in connection with its property or projects in such amount or amounts and from such insurers, including the federal government, and directors and officers liability insurance, as it may deem necessary or desirable, and to pay any premiums therefor;

(z) enter into and perform contracts, project labor agreements, and other agreements, whether or not they may be deemed to constitute indebtedness under applicable law, for the joint or separate planning, financing, construction, purchase, operation, maintenance, use, sharing costs of, ownership, mortgaging, leasing, sale, disposal of, or other participation in facilities, products or services of any person who engages in business on property owned or controlled by the corporation;

(aa) maintain a principal office within the NAS South Weymouth Redevelopment Area;

(bb) make any inquiry, investigation, survey, feasibility study or other study which the corporation may deem necessary to enable it to carry out effectively the provisions of this act;

(cc) apply to the appropriate agencies and officials of the federal government and the commonwealth for licenses, permits or approvals, as are ordinarily applied for by cities and towns of the commonwealth, of its plans or projects as it may deem necessary or advisable, and to accept such licenses, permits or approvals as may be tendered to it by such agencies or officials, upon such terms and conditions as it may deem appropriate;

(dd) make by-laws and establish committees for the management and regulation of its affairs as it may deem necessary and, subject to agreement with bondholders, to make rules pursuant to its own procedures for the use of its projects and property, and to establish and collect rentals, fees, and all other charges for the use of projects under the jurisdiction of said corporation and for services or commodities sold, furnished, or supplied by said corporation;

(ee) design, construct, maintain, operate, improve, and reconstruct such projects as shall be consistent with the purposes and provisions of the approved Reuse Plan and zoning by-laws, including without limitation the maintenance and development of all facilities necessary or convenient in connection with any such project, and also to contract for the construction, operation, or maintenance of any parts thereof, or for services to be performed thereon, and to rent parts thereof and grant concessions thereon, all on such terms and conditions as the corporation may determine, in accordance with said Reuse Plan and zoning by-laws;

(ff) designate the depositories of its money within the commonwealth;

(gg) establish its fiscal year to commence on July 1 and end on June 30 of each year and to change the fiscal year from time to time as said corporation may deem necessary and appropriate;

(hh) take such other actions as it may deem necessary and advisable in the furtherance of the purposes of this act.

SECTION 6A. The corporation shall not be obligated to maintain, operate, improve, or provide services, including police and fire protection, for those portions of the former NAS South Weymouth which remain in federal ownership, nor shall said corporation bear any responsibility or be liable for any injury, damage, or loss arising out of or in connection with any activities which may occur on such federal property, nor as a result of any improvements, damage, deterioration, or environmental hazards occurring thereon. Said corporation may, however, enter into agreements with the federal government to provide any services to areas of the NAS South Weymouth Redevelopment Area remaining in federal ownership which said corporation may provide elsewhere in the NAS South Weymouth Redevelopment Area.

SECTION 7. (a) In addition to any other duties set forth in any provision of this act, the corporation shall coordinate with, and provide information to, the United States and any officials or employees thereof, regarding any matter relating to the ownership, condition, closure, conversion, redevelopment, or future use or operations of the NAS South Weymouth Redevelopment Area as required by the Defense Base Realignment and Closure Act. Notwithstanding any other provision of law, said corporation shall be the only person or entity in the commonwealth authorized to negotiate, purchase, or otherwise obtain on behalf of itself, the commonwealth or any of its political subdivisions, any fee ownership, easement, lease, license, or other interest in any property in or on the NAS South Weymouth Redevelopment Area from the United States, except that a governmental entity of the commonwealth may acquire an interest from said corporation to such property, if such acquisition and use of the property by a governmental entity of the commonwealth is consistent with the Reuse Plan and zoning by-laws. Prior to the disestablishment of the Naval air station planning committee as specified in paragraph (e) of section 13, said committee may request, on behalf of said corporation, that the Government Land Bank act as its agent to conduct implementation negotiations with the United States government until said corporation is fully staffed with the capacity to pursue such negotiations for itself. In addition, said corporation is hereby authorized to request continuing assistance of the Government Land Bank in pursuing such negotiations with the United States government.

(b) The corporation shall be obligated to (i) assume and perform the Government Land Bank's obligations with respect to the less than fair market interim master lease between the United States of America and Government Land Bank d/b/a Massachusetts Development Finance Agency for Naval Air Station South Weymouth, which the committee requested the Government Land Bank to enter into on behalf of the committee, (ii) assume and perform the Government Land Bank's obligations with respect to any subleases which the Government Land Bank enters into pursuant to the less than fair market interim master lease at the committee's request, and (iii) assume any and all obligations, including, without limitation, any letters of intent to lease or sell real estate, entered into by the committee, or the Government Land Bank at the committee's request with respect to the NAS South Weymouth Redevelopment Area.

SECTION 8. (a) The management of the corporation shall be vested in a board of five directors to be appointed as follows:

- (i) one member appointed by the board of selectmen of the town of Abington,
- (ii) two members appointed by the board of selectmen of the town of Rockland,
- (iii) two members appointed by the board of selectmen of the town of Weymouth,
- (iv) the board shall appoint a chairman from among its members who shall serve in that capacity at the pleasure of said board.

(b) Directors shall serve for terms of five years; provided, however, that of those initially appointed, one by the town of Weymouth shall be appointed for a term of three years, one by the town of Rockland and one by said town of Weymouth, shall be appointed for terms of four years, and one by the town of Abington and one by said town of Rockland shall be appointed for terms of five years. All directors shall be eligible for reappointment at the expiration of their terms and may be removed for good cause by their respective appointing authority. Vacancies shall be filled by the board of selectmen of the town that appointed said director.

(c) All directors of said corporation shall have demonstrated expertise or education and experience in one or more of the following areas: real estate development, housing, finance, business, environment, planning, engineering, transportation or municipal government. The towns shall cooperate to assure the appointment of directors from as many of the foregoing disciplines as possible.

(d) Four members of the board shall constitute a quorum. A minimum of three affirmative votes of the quorum shall be required for any action of said board.

(e) Directors shall serve without compensation from the corporation, except for reimbursement of such incidental expenses determined by the board to be necessary and incurred while performing the business of said corporation.

(f) Directors shall be residents of the commonwealth. No director shall be an elected public official of the federal government, the commonwealth, or any political subdivision thereof, except that such restriction shall not apply to elected town meeting members of the town of Weymouth. Residents of the towns of Abington and Rockland who participate in their respective town meetings shall likewise not be restricted from service as a director of said corporation.

(g) Public employees or appointed officials of the federal government and the commonwealth and any of its political subdivisions may serve as directors of said corporation so long as their service as director does not constitute a conflict of interest with their duties as public employees or appointed officials.

(h) Directors shall be subject to the provisions of chapter 268A of the General Laws.

SECTION 9. If any director, or member of his immediate family shall be interested either directly or indirectly, or shall be a director, officer or employee of or have an ownership interest in any firm or corporation interested directly or indirectly, in any contract or other matter involving the corporation, such interest shall be disclosed to the board and shall be set forth in the minutes of the board. The member having such interest shall not partici-

pate on behalf of said corporation in any proceeding or decision relating to such contract or matter. For the purpose of this section, immediate family shall be deemed to include spouse, parent, parent-in-law, brother, brother-in-law, sister, sister-in-law, son, son-in-law, daughter, daughter-in-law, and the parent or child of any one of them.

SECTION 10. (a) There shall be an advisory board to the corporation consisting of (i) one voting representative appointed by the town of Abington and one voting representative appointed by the town of Hingham, (ii) two voting representatives appointed by the town of Rockland and two voting representatives appointed by the town of Weymouth, (iii) one voting representative of the metropolitan area planning council who shall be a member of and be designated by the board of the council and who shall reside in Norfolk county, (iv) one voting representative of the Old Colony planning council who shall be a member of and be designated by the board of the council and who shall reside in Plymouth county, and (v) three voting representatives to be appointed by the governor from the following categories: (1) one voting representative with skill and expertise in matters relating to environmental protection, (2) one voting representative with skill and expertise in matters relating to real estate development, and (3) one voting representative who shall be a member of the board of the South Shore chamber of commerce. The members of the advisory board representing a town shall be appointed by, and serve at the pleasure of, the board of selectmen of that town. The members of the advisory board appointed by the metropolitan area planning council and the Old Colony planning council shall serve at the pleasure of said councils. Said members of said advisory board appointed by the governor shall serve at the pleasure of the governor.

(b) The total voting membership of said advisory board shall be 11 votes, equally weighted. Said advisory board may act at regular periodic meetings called in accordance with its by-laws or at a special meeting called by the corporation or by six or more members of said advisory board. A quorum of said advisory board shall consist of six representatives. Said advisory board may act by the affirmative vote of a majority of the representatives present that constitute a quorum.

(c) For the conduct of its business said advisory board shall adopt and may revise and amend its own by-laws. Said advisory board shall annually elect from among its members a chairperson, a vice chairperson and a secretary and such other officers as said advisory board may determine. Each such officer shall serve in such capacity at the pleasure of said advisory board and may be removed from such position by majority vote of said advisory board. In the event of a vacancy, the appointing authority shall fill the vacancy for the unexpired term. Each member of said advisory board shall serve without compensation but may be reimbursed for all reasonable expenses incurred in the performance of his duties as approved by said advisory board and the corporation.

(d) The purposes of said advisory board shall be as follows:

(i) to review the annual report of the corporation and to prepare comments thereon for the benefit of said corporation, the governor and the towns, and to make such examinations of the reports on said corporation's records and affairs as said advisory board deems appropriate;

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(ii) to hold regular meetings twice annually with the board of directors of said corporation and, at the discretion of said advisory board and with the concurrence of the board of directors of said corporation, special meetings with the board of directors of said corporation as it deems necessary and appropriate on matters relating to said corporation, and to hold meetings at any other time as said advisory board may determine;

(iii) to make recommendations to said corporation on its annual budget; and

(iv) to make recommendations to the governor, the general court, and the towns regarding said corporation and its programs.

(e) Said corporation shall provide such reasonable administrative and staff support to said advisory board as may be necessary for the efficient discharge of said advisory board's responsibilities pursuant to this act.

SECTION 11. The board may from time to time appoint an executive director, who shall devote his full time during business hours to the duties of his office, who shall receive compensation as said board may determine, and who shall serve at the pleasure of said board; a chief financial officer, who shall be the chief financial and accounting officer of the corporation and shall be in charge of its funds, books of accounts, and accounting records; and such other officers and employees as are necessary to the orderly functioning of said corporation. The executive director shall be well qualified to serve in this capacity and shall have, at a minimum, professional education in public administration or a related academic discipline and at least ten years of demonstrated experience in positions of comparable responsibilities. Said chief financial officer shall, at a minimum, have both education and at least ten years of demonstrated experience in the field of finance. Officers and employees of said corporation shall not be subject to the provisions of chapter 30 of the General Laws or section 9A, 45, 46, 51 or 52 of chapter 31 of the General Laws. Officers and employees of said corporation shall be subject to the provisions of chapter 268A of the General Laws. Compensation for employees of said corporation, including the executive director and chief financial officer, shall be set by said board.

SECTION 12. The corporation may hire, fix and pay compensation, prescribe duties and qualifications and establish personnel policies without regard to any personnel or civil service law or personnel or civil service rule of the commonwealth. The employees of said corporation shall not be classified employees of the commonwealth. Any individual employed by said corporation shall be deemed an employee at will and shall serve at the pleasure of said corporation.

SECTION 13. (a) The Reuse Plan prepared by the Naval air station planning committee and approved by majority vote of the town meetings of the three towns, and the zoning by-laws approved by a two-thirds vote of the town meetings of the three towns, shall govern the corporation's redevelopment of the NAS South Weymouth Redevelopment Area. Said zoning by-laws shall be effective on the date that the last of the three towns gives its approval of the same; provided, however, that neither the towns nor said corporation may initiate or undertake any redevelopment activity within the NAS South Weymouth Redevelopment Area, unless and until the three towns approve said zoning by-laws in accordance

with this section. Once effective, said zoning by-laws shall supersede the existing zoning by-laws of the towns except to the extent the existing zoning by-laws are incorporated in the zoning by-laws. Adoption of the Reuse Plan and zoning by-laws by the towns shall constitute final acceptance of the same for the purposes of this act.

(b) A revision to the Reuse Plan or zoning by-laws considered to be substantial as that term is defined in the Reuse Plan and zoning by-laws shall not be effective until the towns, following public hearings, approve said revision. Within 90 days of receipt of a proposed substantial revision to the Reuse Plan or zoning by-laws, the board of selectmen of each of the towns shall convene a town meeting for the purpose of adopting by majority vote of each town meeting the substantial revision to the Reuse Plan, or adopting by two-thirds vote of each town meeting the substantial revision to the by-laws, as the case may be. Each town shall vote to adopt or disapprove the substantial revision to the Reuse Plan or zoning by-laws as submitted. No amendments to the proposed substantial revision to the Reuse Plan or zoning by-laws shall be made by the towns. Each town shall, within 30 days of adoption or rejection of a proposed substantial revision to the Reuse Plan or zoning by-laws at a town meeting, provide the secretary with a written notification stating whether the town meeting adopted or rejected the proposed substantial revision to the Reuse Plan or zoning by-laws. Until such time as all three towns have adopted the proposed substantial revision to the Reuse Plan or zoning by-laws, said change to the Reuse Plan or zoning by-laws shall have no force or effect. Revisions to the Reuse Plan or zoning by-laws not considered substantial pursuant to the guidelines set forth in the Reuse Plan or zoning by-laws shall be effective upon approval thereof by the corporation. Prior to approving any revision not considered substantial, said corporation shall formally notify and consult with the towns and the advisory board, publish a notice of public hearing in a newspaper of general circulation within the NAS South Weymouth Region, hold at least one public hearing in the NAS South Weymouth Redevelopment Area or in any one of the towns, and afford the opportunity for public comment at which the proposed revision to the Reuse Plan or zoning by-laws not considered substantial shall be considered and voted upon. Nothing in this section shall require said corporation to be governed by the requirements of chapter 30A of the General Laws.

(c) The procedures set forth in this section for the adoption of the Reuse Plan and zoning by-laws, whether such adoption occurs prior to or subsequent to the effective date of this act, and for adopting revisions to the Reuse Plan and zoning by-laws shall be exclusive notwithstanding any other provision of general or special law.

(d) Regulations for the effective implementation and enforcement of the Reuse Plan and zoning by-laws and revisions thereof shall be developed and adopted by the corporation, pursuant to section 6. No regulation shall be adopted by said corporation without first publishing notice of same in a newspaper of general circulation within the NAS South Weymouth Region, holding at least one public hearing in the NAS South Weymouth Redevelopment Area or in any one of the towns, and affording the opportunity for public comment. Nothing in this section shall require said corporation to be governed by the requirements of chapter 30A of the General Laws.

(e) Except where the provisions of the General Laws establish jurisdiction of another court or agency to act on appeal from such determination or approval when otherwise made by a municipal board, commission or official, any person aggrieved by a determination or approval of the corporation, whether or not previously a party to the proceeding, may appeal to the superior court or land court by bringing an action within 20 days after said corporation has filed its decision in each of the three towns' clerk's offices. Said 20 day period shall commence only after all such filings have been completed. The court shall hear all pertinent evidence and shall annul the determination of said corporation if it finds that said determination is unsupported by substantial evidence or exceeds the authority of said corporation, or it may remand the case for further action by said corporation or may make such other decree as is just and equitable.

(f) The Naval air station planning committee shall be disestablished on the 120th day following the effective date of enactment of this act or upon the appointment of the five members of the board of said corporation, whichever occurs first.

SECTION 14. The corporation shall, with the assistance of the secretary and the commissioner of revenue, hereinafter referred to as the commissioner, determine an appropriate plan, in accordance with the Reuse Plan and zoning by-laws approved by the towns, for said corporation's assessment of property taxes and other taxes generally available to be levied or assessed by municipalities under the General Laws, and user fees in the NAS South Weymouth Redevelopment Area. The plan shall provide for the imposition and levy of reasonable assessments, rates, property taxes and user fees upon persons, residents and estates lying within said NAS South Weymouth Redevelopment Area including both the central redevelopment and perimeter areas. Said corporation shall use as its property tax rate for businesses located within said NAS South Weymouth Redevelopment Area a rate which blends the business tax rates or equivalent thereof then applicable in the three towns, in proportion to the respective land area of each town within said NAS South Weymouth Redevelopment Area to the total land area within said NAS South Weymouth Redevelopment Area. Upon approval of such plan by the secretary and the commissioner, said corporation shall exercise all the powers granted to cities and towns to enable the collection of such taxes and other charges. The towns shall not be entitled to assess any fees or taxes on property, persons or businesses located in said NAS South Weymouth Redevelopment Area unless the towns or any one of them has by agreement with said corporation undertaken to issue specific licenses and permits to persons, businesses or other entities within said NAS South Weymouth Redevelopment Area. In such cases, the town issuing said licenses or permits may assess and collect a reasonable fee for the issuance of such licenses and permits from the licensees or permittees. The towns shall not be required to incur any costs or expenses related to the provision of municipal services within said NAS South Weymouth Redevelopment Area or to provide municipal services therein except pursuant to written agreement for the provision of the same with one or more of the towns. Each town shall be responsible for furnishing or funding the cost of municipal services furnished to any land within said NAS South Weymouth Redevelopment Area owned or leased by the towns.

SECTION 15. The executive office of administration and finance and the departments of housing and community development, labor and workforce development, and economic development are hereby authorized and directed to identify a senior staff member who shall assist the corporation with establishing a method for coordinating one-stop licensing for all businesses and developments to be located within the NAS South Weymouth Redevelopment Area for the purpose of expediting the process for obtaining commonwealth licenses, permits, certificates, approvals, registrations, charters and meeting any other requirements of law. Said corporation shall assist prospective developers by centrally coordinating the submission of licensing and permitting requests to the permitting agencies.

SECTION 16. Each public agency in the commonwealth involved in the development or financing of economic development projects is hereby authorized and directed to develop a coordinated one-stop program for businesses, institutions and private parties that may intend to locate in the NAS South Weymouth Redevelopment Area in order to enable development activities within said NAS South Weymouth Redevelopment Area to be more effectively promoted by the commonwealth.

SECTION 17. (a) Excess revenues of the corporation, as that term is defined in the Reuse Plan and zoning by-laws, shall be distributed by the board annually within 60 days following the end of said corporation's fiscal year to the towns of Abington, Rockland and Weymouth based upon the ratio of the land area of each town located within the boundaries of the NAS South Weymouth Redevelopment Area to the total acreage of said NAS South Weymouth Redevelopment Area.

(b) The sharing of tax and nontax revenues generated in said NAS South Weymouth Redevelopment Area shall continue based on the formula in subsection (a) in perpetuity following termination of said corporation in accordance with section 31.

SECTION 18. (a) The corporation is hereby authorized to provide by resolution for the issuance of revenue bonds of said corporation for the purposes of paying all or any part of the cost of a project or projects and operating and maintenance costs including, without limitation, the costs of acquiring real estate, of professional services, and any and all costs incidental to the planning, design, and development of the project or projects. Revenue bonds may pledge as security, among other things, notes, debentures, long term capital leases, and long term contracts. Said corporation may issue no more than \$110,000,000 of such revenue bonds or notes as may be otherwise authorized. The principal of and interest on such bonds shall be payable solely from the funds provided herein for such payment. The bonds of each issue shall be dated, shall bear interest at such rates, which may be variable or fixed, and shall mature at such time or times not exceeding 20 years from their date or dates of initial issuance, as said corporation may determine, and may be made redeemable before maturity, at the option of said corporation, at such price or prices and under such terms and conditions as said corporation may fix prior to the issuance of the bonds. Said corporation shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination of the bonds and the place or places of payment of principal and interest. In case any officer whose signature or

a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The bonds may be issued in coupon or registered form or both, as said corporation may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest. The bonds may be issued in different series for different projects and may be either tax-exempt or taxable as permitted by law. Said corporation may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be in the best interests of said corporation.

(b) The proceeds of such bonds shall be used solely for the payment of the cost of operations and maintenance and for projects determined by the board to be in furtherance of the purposes of said corporation and of this act, and shall be disbursed in such manner and under such restrictions, if any, as said corporation may provide. Prior to the preparation of definitive bonds, said corporation may, under like restrictions, issue interim receipts or temporary notes, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. Said corporation may also provide for the replacement of any bonds that shall become mutilated or shall be destroyed or lost. Revenue bonds may be issued under the provisions of this act subject only to those proceedings, conditions or things that are specifically required by this act.

(c) Said corporation is hereby authorized to provide by resolution for issuance of revenue refunding bonds of said corporation for the purpose of refunding any revenue bonds then outstanding and issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by said corporation, for the additional purpose of constructing or reconstructing any extensions or improvements of the project. The issuance of such bonds, the maturities, and other details thereof, the rights of the holders thereof, and the duties of said corporation in respect to the same shall be governed by the provisions of this act insofar as the same may be applicable.

(d) While any bonds issued by said corporation remain outstanding, the powers, duties or existence of said corporation shall not be diminished or impaired in any way that will adversely affect the interests and rights of the holders of such bonds.

(e) The board may by resolution delegate to any director or to any officer of said corporation the power to determine any of the matters set forth in this section.

(f) Revenue and revenue refunding bonds issued under the provisions of this section, unless otherwise authorized by law, shall not be deemed to constitute a debt of the commonwealth or of the towns, or a pledge of the faith and credit of the commonwealth or of the towns, but such bonds shall be payable solely from the funds of said corporation or as otherwise provided in this act. Unless the towns or the commonwealth subsequently agree to pay said revenue and revenue refunding bonds of said corporation, then all such revenue and revenue refunding bonds shall contain on the face thereof a statement to the effect that neither the commonwealth nor the towns shall be obliged to pay the same or the interest thereon and

that neither the faith and credit nor taxing power of the commonwealth or the towns is pledged to the payment of the principal of or the interest on such bonds.

(g) All revenue and revenue refunding bonds issued under the provisions of this section shall have and are hereby declared to have all the qualities and incidents of negotiable instruments.

(h) Prior to the issuance of any revenue bonds with a maturity date later than the date said corporation is required to be terminated pursuant to section 31, the boards of selectmen of the towns, in consultation with said corporation, shall enter into an intermunicipal debt service agreement acceptable to said corporation, which shall provide for the continued payment of principal and interest on such bonds and the maintenance of all required reserves and any other obligations as may be set forth in the applicable bond instruments solely from the tax and nontax revenues generated in the NAS South Weymouth Redevelopment Area and said corporation and the towns are hereby authorized to enter into and perform their respective obligations under such debt service agreement; provided, however, that such agreement shall not extend the duration of said corporation past the date on which it is to be terminated pursuant to section 31.

SECTION 19. (a) In the discretion of the corporation, revenue bonds or revenue refunding bonds may be secured by a trust agreement by and between said corporation and a corporate trustee. Such trust agreement may pledge or assign the revenues to be received, but shall not convey or mortgage any project or part thereof.

(b) Either the resolution providing for the issuance of bonds or the trust agreement may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities, and covenants setting forth the duties of, and limitations on, said corporation in relation to the acquisition, construction, improvement, enlargement, alteration, equipping, furnishing, maintenance, operation, repair, insurance and disposition of property, custody, safeguarding, investment, application of moneys, use of any surplus bond or note proceeds and establishment of reserves. Such resolution or trust agreement may also contain covenants by said corporation in relation to, among other things: (1) the establishment, revision and collection of such taxes, rents and charges for services or facilities furnished or supplied by said corporation as shall provide revenues which together with other revenues of the project, if any, are sufficient to pay (i) the cost of maintaining, repairing and operating the project and of making renewals and replacements in connection therewith, (ii) the principal of and the interest on said revenue bonds, as the same shall become due and payable, (iii) payments in lieu of taxes, betterments and special assessments, and (iv) reserves for all such purposes; (2) the purpose or purposes for which the proceeds of the sale of the bonds will be applied and the use and disposition thereof; (3) the use and disposition of the gross revenues of said corporation from the project, any additions thereto and extension and improvements thereof, including the creation and maintenance of funds for working capital and for renewals and re-

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placements to the project; (4) the amount, if any, of additional revenue bonds payable from the revenues of the project and the limitations, terms and conditions on which such additional revenue bonds may be issued; and (5) the operation, maintenance, management, accounting and auditing of the project and of the income and revenues of said corporation.

(c) It shall be lawful for any bank or trust company incorporated under the laws of the commonwealth to act as depository of the proceeds of bonds or of revenues and to furnish such indemnifying bonds or to pledge such securities as may be required by said corporation. Such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, such trust agreement may contain such other provisions as said corporation may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement may be treated as a part of the cost of the operation of the project. The pledge by any such trust agreement or resolution shall be valid and binding from the time when the pledge is made; the revenues or other moneys so pledged and then held or thereafter received by said corporation shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against said corporation, irrespective of whether such parties have notice thereof. The financing document by which any pledge is created by said corporation shall not be required to be filed or recorded to perfect such pledge except in the official records of said corporation and no Uniform Commercial Code filing shall be required to be made.

SECTION 20. Revenue bonds and revenue refunding bonds issued under the provisions of this act are hereby made securities in which all public officers and public bodies of the commonwealth and its political subdivisions, all insurance companies, trust companies and their commercial departments and within the limits set forth in chapter 172 of the General Laws, banking associations, investment companies, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereinafter be authorized to invest in bonds or other obligations of a similar nature may properly and legally invest funds, including capital in their control or belonging to them; and such bonds are hereby made obligations that may properly and legally be made eligible for the investment of savings deposits and the income thereof in the manner provided in chapter 168 of the General Laws. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the commonwealth for any purpose for which the deposit of bonds or other obligations of the commonwealth is now or may hereafter be authorized by law.

SECTION 21. Any holder of bonds issued under the provisions of this act or any coupons pertaining thereto, and the trusts, except to the extent the rights herein given may be restricted by the trust agreement, may, by commencing a civil action, protect and enforce any and all rights under the laws of the commonwealth or granted hereunder or under the

trust agreement, and may enforce and compel the performance of all duties required by this act or by the trust agreement, to be performed by the corporation or by any officer thereof.

SECTION 22. The towns and the commonwealth are pledged to agree with the holders of the bonds or notes that neither the towns nor the commonwealth shall limit or alter or cause to limit or alter the rights hereby vested in the corporation to acquire, construct, reconstruct, improve, maintain, equip and furnish the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds or notes nor in any way impair the rights and remedies of the bondholders or noteholders, until the bonds or notes, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders, are fully met and discharged.

SECTION 23. (a) It is hereby determined that the creation of the corporation and the carrying out of its corporate purposes is in all respects for the benefit of the people of the commonwealth and is a public purpose, and said corporation shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this act and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction, control or supervision or upon its activities.

(b) Any bonds issued under this act, including any exchange, sale or transfer of such bonds, and any income derived therefrom, as well as the property of the agency, shall at all times be free from taxation by the commonwealth or any political subdivision or entity thereof.

SECTION 24. The corporation shall be liable in contract and in tort in the same manner as a municipal corporation. The directors, officers, employees and agents of said corporation including members of the advisory board established pursuant to section 10, shall not be liable as such on their contracts or for torts not committed or directly authorized by them. The property or funds of said corporation shall not be subject to attachment or to levy and sale on execution, but if said corporation refuses to pay a judgment entered against it in any court of competent jurisdiction, the superior court, sitting within and for the county in which said corporation is situated, may direct the treasurer of said corporation to pay such judgment. The real estate owned by said corporation shall not be subject to liens under chapter 254 of the General Laws but the provisions of sections 28 and 29 of chapter 149 of the General Laws shall be applicable to any construction work by said corporation.

SECTION 25. Notwithstanding the provisions of any general or special law to the contrary, the corporation shall be deemed to be a public employer for purposes of chapter 258 of the General Laws.

SECTION 26. (a) The corporation may, if appropriate, make application to the United States Department of Housing and Urban Development or, as necessary, any other federal agency, to designate all or a portion of the NAS South Weymouth Redevelopment Area as an enterprise zone, pursuant to 42 U.S.C. section 11501 et seq., as amended, or any existing or successor statute for the purpose of creating jobs and encouraging development in said NAS South Weymouth Redevelopment Area.

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(b) Said NAS South Weymouth Redevelopment Area and the towns of Abington, Rockland and Weymouth are hereby designated economic target and economic opportunity areas as defined in sections 3D and 3E of chapter 23A of the General Laws. Pursuant to such designation, certain development projects within said NAS South Weymouth Redevelopment Area and the towns of Abington, Rockland and Weymouth shall be eligible for tax deductions, credits and abatements and other economic incentives as provided for in sections 3E to 3H of said chapter 23A. Said corporation shall render such certifications as are required by law for projects within the central redevelopment area and each town shall render such certifications within its respective sector of the perimeter area. The designation of said NAS South Weymouth and the towns of Abington, Rockland and Weymouth as economic target areas shall be in addition to the 20 economic target areas that are authorized to be established throughout the commonwealth pursuant to paragraph 5 of said section 3E of said chapter 23A.

SECTION 27. The corporation shall be subject to all laws applicable to municipal redevelopment authorities created under section 4 of chapter 121B of the General Laws.

SECTION 27A. The corporation or its agent may enter into project labor agreements covering construction performed on and during redevelopment of the NAS South Weymouth Redevelopment Area pursuant to paragraphs (p) and (z) of this act.

SECTION 28. The corporation shall keep an accurate account of all of its activities and all receipts and expenditures. Said corporation shall prepare annual reports of its activities in the NAS South Weymouth Redevelopment Area during the preceding fiscal year and submit such reports to the governor, secretary, general court, advisory board and boards of selectmen of the towns. Each such report shall set forth a complete operating and financial statement covering said corporation's operations in said NAS South Weymouth Redevelopment Area during the previous year. Said corporation shall cause an audit of its books and accounts relating to said NAS South Weymouth Redevelopment Area to be made at least once in each fiscal year by certified public accountants. Such audit shall be filed with the state auditor annually on or before the one hundred and twentieth day following the end of said corporation's fiscal year and shall be in a form prescribed by the state auditor. Said auditor shall likewise audit said corporation's books and accounts at least once every two fiscal years. Said auditor may investigate the budget and finances, transactions and relationships of said corporation at any time and shall have the power to examine said corporation's records and to prescribe methods of accounting and the rendering of periodic reports. All such audits of said corporation shall be deemed to be public records.

SECTION 29. The provisions of sections 23A to 23C of chapter 39 of the General Laws shall be applicable to the corporation.

SECTION 30. (a) Unless otherwise extended by operation of subsection (b), the corporation shall be dissolved no later than the last day of the twentieth year following the effective date of this act, or on the date that the redevelopment of the NAS South Weymouth Redevelopment Area contemplated in the Reuse Plan and zoning by-laws is fully accomplished, whichever occurs first; provided, however, that termination of said corporation shall

not occur prior to the date on which the entire outstanding indebtedness of said corporation is fully retired pursuant to the terms and conditions of any debt and trust instruments entered into by said corporation as authorized by this act, unless such indebtedness is transferred to a party acceptable to the debt holders which shall be responsible for fulfilling all terms and conditions to which said corporation was previously obliged, in which case said corporation shall be terminated as hereinabove described; provided, further, that the duration of said corporation may be extended for an additional period of five years following the end of the 20 year period, but only upon the unanimous request to the general court from the three towns, signified by a majority vote of the boards of selectmen of each town, and enactment by the general court of an act extending the life of said corporation. In no event may said corporation issue any revenue bonds or other debt instruments which provide for a maturity date later than the last day of the twentieth year following the effective date of this act, unless: (i) said corporation is expressly authorized to do so by duly enacted legislation following receipt by the general court of home rule petitions approved by two-thirds votes of the town meetings of the towns, or (ii) a debt service agreement as referenced in paragraph (h) of section 18 has been entered into.

(b) At least 24 months prior to the termination date of said corporation, unless any matter which would otherwise be addressed therein requires earlier agreement among the towns, the towns shall enter into an intermunicipal agreement in accordance with section 4A of chapter 40 of the General Laws which, among other things, shall provide for the following: (i) disposition of all real and personal property within the NAS South Weymouth Redevelopment Area which said corporation owns or has any interest in on the date of termination, (ii) assumption of all contractual obligations including all lease agreements of said corporation which do not expire on the date of termination, (iii) assessment, collection and distribution of tax and nontax revenues to the towns in accordance with section 17, (iv) arrangement for the provision of, and reimbursement for, municipal services furnished by the towns to the NAS South Weymouth Redevelopment Area which continue after the date of termination, (v) arrangements for the transfer and assumption by the towns of said corporation's zoning administration, licensing and permitting authorities, and (vi) resolution of any other matters relating to said corporation which the towns determine to be in their best interests. The towns are hereby authorized to enter into and perform their respective obligations under such intermunicipal agreement. Notwithstanding the termination provisions of subsection (a), said corporation shall not be dissolved unless and until the three towns have entered into and executed the intermunicipal agreement provided for in this subsection.

SECTION 31. This act shall take effect upon its passage.

Approved August 14, 1998.

Chapter 302. AN ACT PROVIDING FOR REGISTRATION OF BICYCLE MESSENGER SERVICES AND LICENSING OF COMMERCIAL MESSENGERS IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. The purpose of this act shall be to establish a mechanism for registering commercial bicycle messenger services and licensing commercial messengers as a traffic safety control measure in the city of Boston, notwithstanding the provisions of any general or special law to the contrary.

SECTION 2. For the purposes of this act, the following terms shall have the following meanings unless the context clearly requires otherwise:

"Commercial bicycle messenger", a person compensated for using a bicycle to carry or transport an article over the public ways in the city of Boston. Nothing in this act shall be construed to apply to a person under the age of 17 who uses a bicycle to deliver daily newspapers or circulars.

"Commercial bicycle messenger identification device", a lightweight, numbered reflective device to be visibly displayed on the back or back pack of the bicycle messenger of such material, form, design, and dimension as the commissioner shall prescribe by regulation.

"Commercial bicycle messenger license", a numbered permit issued by the commissioner which include, but not be limited to, the name, residential address, telephone number and date of birth of the applicant.

"Commercial bicycle messenger license plate", a numbered reflective plate to be visibly displayed on the back of the bicycle attached to the rear of the bicycle seat made of such material, form, design, and dimension as the commissioner shall prescribe by regulation.

"Commercial bicycle messenger service", an individual, firm, association, corporation, partnership or joint venture, including independent contractors who are not affiliated with an organized commercial bicycle messenger service, doing business in the city of Boston and whose business is the local pick-up, transport and delivery of small packages including, but not limited to, letters, documents or other articles, including food, by bicycle on behalf of a commercial, industrial, governmental, charitable or other enterprise.

"Commissioner", commissioner of the Boston police department.

"Registration", registration issued by the commissioner to a commercial bicycle messenger service.

"Year", the calendar year.

SECTION 3. All commercial bicycle messenger service shall register with the commissioner. A registration form shall be approved by the commissioner and shall include, in addition to other information deemed necessary by said commissioner, the following:

- 1) the name, address and telephone number of the commercial bicycle messenger service;
- 2) the name and principal residential address of the owner of the commercial bicycle messenger service;

3) the name, address and telephone number of a person authorized to receive notices issued pursuant to this act; and

4) a statement indicating the number of licensed commercial bicycle messengers employed or utilized by the service at the time of the registration, including the name, telephone number and address of each such messenger.

A corporate applicant for a registration shall be organized and qualified to do business under the laws of the commonwealth of Massachusetts.

SECTION 4. As a condition of registration, a commercial bicycle messenger service shall:

1) employ or utilize only licensed commercial bicycle messengers;

2) keep available for inspection by the commissioner, or a designee thereof, an updated list of licensed commercial bicycle messengers employed or engaged by the service;

3) deliver an updated list of bicycle messengers utilized or employed to the Boston Police Department licensing division on the first day of each month; and

4) Instruct licensed commercial bicycle messengers in safe bicycling techniques in accordance with section 11B of chapter 85 of the General Laws, and established principles of safe bicycle riding, and document the same.

The registration fee payable by a commercial bicycle messenger service shall be \$25 and shall be valid for a one-year period. It shall be the responsibility of a commercial bicycle messenger service to renew its registration. The fee for such renewal shall be \$25.

A commercial bicycle messenger service shall be subject to a fine of \$100 per day for each violation of the conditions of registration provided in this section.

SECTION 5. A commercial bicycle messenger who operates a bicycle on a public way in the city of Boston shall apply to the commissioner for a commercial bicycle messenger license, a commercial bicycle messenger identification device and a commercial bicycle messenger license plate.

The commercial bicycle messenger license application form shall include, in addition to other information deemed necessary by the commissioner, the following:

1) the applicant's name, principal residential address, telephone number, date of birth and name and address of the company employing or engaging the applicant's services;

2) a statement that the applicant is aware of all traffic rules and regulations with respect to vehicular travel and with respect to the safety and the rights of pedestrians; and

3) acceptable forms of identification in addition to any information required by the commissioner.

A license issued pursuant to the provisions of section 6 shall be carried by the bicycle messenger on his person at all times while in the performance of his duties as a bicycle messenger and shall be presented when requested by a police officer or if involved in an accident or if requested by an employee of a business or by the manager or his designee of a public or commercial building in which such messenger seeks or has gained entry while in the performance of his duties as a bicycle messenger.

SECTION 6. The commissioner may approve the application and issue the applicant

a commercial bicycle messenger license and a commercial bicycle messenger identification device and license plate within three working days of receipt of the application.

SECTION 7. A commercial bicycle messenger shall prominently display a commercial bicycle messenger license plate issued by the Boston police department at the rear of the bicycle seat when employed or utilized as a commercial bicycle messenger.

Additionally, a commercial bicycle messenger, when upon a bicycle, shall properly wear a bicycle safety helmet in compliance with section 11B of chapter 85 of the General Laws.

SECTION 8. The application fee for a commercial bicycle messenger license and commercial bicycle messenger identification device and license plate shall be \$25 and shall be valid for a one-year period. It shall be the responsibility of the commercial bicycle messenger to renew the commercial bicycle messenger license, identification device and license plate. The renewal fee therefor shall be \$25. A change in affiliation or employment with a commercial bicycle messenger service shall be cause for renewal; provided, however, there shall be no cost of renewal due to a change in affiliation within the one-year license period.

SECTION 9. A commercial bicycle messenger shall be subject to a fine for failing to carry a commercial bicycle messenger license when employed or utilized as a commercial bicycle messenger. Such fine shall be \$100 for a first offense, \$150 for a second offense and up to \$300 for a third or subsequent offense within the period of one year.

SECTION 10. A commercial bicycle messenger shall be subject to a fine for failure to wear, or wear properly, a helmet as provided under section 8, and for failure to properly display a commercial bicycle messenger identification device and license plate in compliance with the provisions section 7. Such fine shall be \$100 for a first offense, \$150 for a second offense and up to \$300 for a third or subsequent offense within the period of one year.

SECTION 11. The commissioner may, in his discretion, deny, suspend, or revoke a commercial bicycle messenger license issued pursuant to section 5 or 6 for cause. A commercial bicycle messenger may request a hearing to appeal any such denial, suspension or revocation of a commercial bicycle messenger license.

SECTION 12. The commissioner may promulgate rules and regulations necessary or desirable for the administration of this act.

SECTION 13. Each commercial bicycle messenger service registering or renewing its registration shall provide proof that the service and each commercial bicycle messenger utilized or employed by such service has insurance coverage in the following minimum amounts:

- 1) \$50,000 for property damages;
- 2) \$50,000 for injuries or death of any one person; and
- 3) \$100,000 for injuries to or death of more than one person in any one accident.

Workers' compensation coverage shall be provided as required by law.

An insurance policy required by this section shall be in a form satisfactory to the commissioner and shall provide that the policy shall not be canceled and the amount of the coverage shall not be changed unless 60 days prior written notice shall be given to the commissioner.

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SECTION 14. This act shall take effect 120 days following its enactment.

SECTION 15. The provisions of this act shall be subject to the provisions of section 11C of chapter 85 of the General Laws.

Approved August 14, 1998.

Chapter 303. AN ACT PROVIDING ACCESS TO CERTAIN COMMUTER RAIL STATIONS OF THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law, rule, regulation or agreement to the contrary, a platform constructed by the Massachusetts Bay Transportation Authority at commuter rail stations in the towns of Ashland, Southborough, Westborough and Grafton may consist of low platforms and mini high platforms.

SECTION 2. The Massachusetts Bay Transportation Authority shall guarantee priority seating for eight wheelchair passengers on all trains on the Worcester line of the commuter rail. Said authority shall make said priority seating accessible on all departures from the stations listed in section 1 and shall provide signage on all trains using the Worcester line directing passengers without disability to give up seating for wheelchair passengers.

SECTION 3. The Massachusetts Bay Transportation Authority shall modify all necessary cars so that wheelchair seating will be available on the first day of service at the stations listed in section 1. Said authority shall initiate a promotional campaign and outreach program to encourage disabled ridership by informing the disabled community of the expanded and user friendly service.

SECTION 4. The Massachusetts Bay Transportation Authority shall conduct a study, in collaboration with the office on disability and as articulated in a memorandum of understanding, to be completed within one year of the completion of the station construction, to assess disabled ridership and, if it is determined that additional modified seats are necessary to meet the demand for seating for wheelchair passengers, said authority, without further legislative action, shall modify seats to meet the need as determined by said study within one year of the completion of said study.

SECTION 5. The Massachusetts Bay Transportation Authority shall establish an advisory committee whose members shall include representatives from the Center for Living and Working, the Center for Independent Living, the office on disability and the Massachusetts Bay Transportation Authority. Said advisory committee shall be established within 30 days after the effective date of this act and shall exist for a period of not less than one year after the implementation of service at the stations listed in section 1.

SECTION 6. The Massachusetts Bay Transportation Authority shall conduct a study for the purpose of establishing a plan for assessing fines against commuter rail contractors

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who fail to meet the rights of disabled passengers under the provisions of the Americans with Disabilities Act and applicable laws of the commonwealth, including the amount of said fine and the use of the proceeds of said fines for the benefit of an appropriate disabled advocacy group. Said authority shall report to the general court the results of its study and its recommendations, if any, together with drafts of legislation necessary to carry out such recommendations, by filing the same with the clerk of the senate within six months after the effective date of this act.

Approved August 14, 1998.

Chapter 304. AN ACT RELATIVE TO ESTABLISHING A LAND BANK FUND IN THE TOWN OF MARION.

Be it enacted, etc., as follows:

SECTION 1. There is hereby established in the town of Marion a land bank, the purpose of which is to acquire fee and less than fee interest in land now, while it is still available, known to be needed by the public in the future, for the purpose of acquiring, reclaiming, holding and managing land, conservation easements and interests in lands consistent with the most recent open space and recreation plan of the town. Said land bank shall be administered by the open space acquisition commission established pursuant to chapter 187 of the acts of 1998. Said open space acquisition commission, in addition to any other statutory authority, shall have the power to hire staff and professional services necessary to perform its duties. Said open space acquisition commission shall meet its financial obligations by: (i) drawing upon an open space fund that is funded by a property tax surcharge at a rate and with such exemptions as shall be determined by vote of town meeting and subject to approval by vote in the next town election, (ii) appropriations voted by the town at town meeting, and (iii) gifts made to said fund in cash or other negotiable securities.

SECTION 2. This act shall be submitted for acceptance to the voters of the town of Marion at the next town election in the form of the following question which shall be placed upon the official ballot at said election: "Shall an act passed by the general court in the year 1998 entitled 'An Act relative to establishing a land bank fund in the town of Marion' be accepted?". If a majority of the votes cast in answer to said question is in the affirmative, then this act shall thereupon take effect, but not otherwise.

Approved August 14, 1998.

Chapter 305. AN ACT REGULATING TELEPHONE SALES OF STATE LOTTERY WAGERS OR TICKETS.

Be it enacted, etc., as follows:

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SECTION 1. Section 24 of chapter 10 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 10, the words "shares, provided that" and inserting in place thereof the following words:- shares; provided, however, that no tickets or shares, other than season tickets, so-called, shall be sold, offered for sale, or purchased from a licensed sales agent or the lottery commission by telephone or by the use of computer or facsimile services; provided, further, that said restriction shall not govern the transmittal of lottery information and sales through telephone services strictly between the lottery commission and its duly licensed sales agents; provided, further, that.

SECTION 2. Said section 24 of said chapter 10, as so appearing, is hereby further amended by inserting after the word "shares", in line 15, the following words:- ; provided, however, that the amount of compensation, if any, to be paid to licensed sales agents as a commission pursuant to this section shall be calculated on the total face value of each ticket or share sold and not on any discounted price of any such ticket or share sold.

SECTION 3. Notwithstanding the provisions of any general or special law, rule, or regulation to the contrary, the state lottery commission shall conduct an investigation and study relative to the implementation of telephone betting services by said commission through its licensed sales agents. Said commission shall report the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerk of the house of representatives and the clerk of the senate by December 31, 1998.

Approved August 18, 1998.

Chapter 306. AN ACT RELATIVE TO COST OF LIVING ADJUSTMENTS.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section 103 of chapter 32 of the General Laws, a retirement board may grant a cost of living adjustment for fiscal year 1999 at any time during said fiscal year and said cost of living adjustment shall be retroactive to July 1, 1998; provided, however, that said section 103 has been accepted by the retirement board and legislative body. Except as otherwise provided herein, a cost of living adjustment calculation approved under the provisions of this act, shall be subject to the provisions of said section 103 of said chapter 32.

Emergency Letter: August 21, 1998 @ 12:47 P.M.

Approved August 20, 1998.

Chapter 307. AN ACT FURTHER REGULATING CERTAIN INSURANCE.

Be it enacted, etc., as follows:

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SECTION 1. Chapter 175 of the General Laws is hereby amended by striking out section 112A, as appearing in the 1996 Official Edition, and inserting in place thereof the following section:-

Section 112A. Liquor legal liability insurance shall provide insurance coverage against the legal liability of the insured and against loss, damage or expense incident to a claim arising out of death or injury to any person as a result of negligence in the distribution, sale, or serving of alcohol by a licensee or an employee, or agent thereof, or any other person or entity to whom a policy of liquor legal liability insurance has been issued.

SECTION 2. Section 1 of chapter 223 of the acts of 1985 is hereby amended by striking out the definition of "Liquor legal liability insurance" and inserting in place thereof the following definition:-

"Liquor legal liability insurance", insurance coverage against the legal liability of the insured and against loss, damage, or expense incident to a claim arising out of death or injury to any person as a result of negligence in the distribution, sale or serving of alcohol by any licensee, or by any other person or entity to whom a policy of liquor legal liability insurance has been issued or an employee or agent thereof.

SECTION 3. Said chapter 223 is hereby further amended by striking out section 13, as most recently amended by section 245 of chapter 110 of the acts of 1993, and inserting in place thereof the following section:-

Section 13. Sections 1 to 12, inclusive, of this act shall expire on December 31, 2004.

Approved August 20, 1998.

Chapter 308. AN ACT PROHIBITING SEX OFFENDERS FROM WORK RELEASE PROGRAMS.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 49 of chapter 127 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 9 to 14, inclusive, the words "thirteen B, fourteen, fifteen, fifteen A, fifteen B, sixteen, seventeen, eighteen, eighteen A, nineteen, twenty, twenty-one, twenty-two, twenty-two A, twenty-three, twenty-four, twenty-four B, twenty-five, or twenty-six of chapter two hundred and sixty-five, or section seventeen, thirty-four, thirty-five, or thirty-five A" and inserting in place thereof the following:- 14, 15, 15A, 15B, 16, 17, 18, 18A, 19, 20, 21, 24B, 25, or section 26 of chapter 265, or section 17, 34, or 35.

SECTION 2. Said first paragraph of said section 49 of said chapter 127, as so appearing, is hereby further amended by adding the following sentence:- No sex offender, or sexually dangerous person as defined in section 1 of chapter 123A, or any person whocommits a sexual offense as defined in said section 1, or any person who violates section 24B of chapter 265 shall be eligible for any program outside a correctional facility authorized

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under section 48 or any other work release program authorized by law.

Approved August 21, 1998.

Chapter 309. AN ACT RELATIVE TO THE MEMBERSHIP OF THE SPECIAL MILITARY RESERVATION COMMISSION.

Be it enacted, etc., as follows:

Chapter 196 of the acts of 1935 is hereby amended by striking out section 1, as most recently amended by chapter 20 of the acts of 1941, and inserting in place thereof the following section:-

Section 1. A special military reservation commission is hereby established, consisting of the adjutant general as chairman and of the air guard commander, Massachusetts national guard, and the state quartermaster as associate commissioners, said commission to be hereinafter referred to as the commission. Neither the adjutant general nor the state quartermaster shall receive any additional compensation on account of their membership in said commission. Said air guard commander shall receive one day's pay of grade for each day upon which he actually sits, or performs duties incumbent upon him, as a member of the commission, but in no event more than \$250 in any one year. In case said air guard commander is relieved from duty in the national guard by reason of being in the military service of the United States of America under call or order of the president of said United States or in case said air guard commander, while not in said military service, is unable to perform his duties as such associate commissioner by reason of absence from the commonwealth, the governor as commander-in-chief may appoint some other general officer of the land forces of the commonwealth to act during the period of such service or absence, as such associate commissioner in lieu of said air guard commander.

Approved August 27, 1998.

Chapter 310. AN ACT DESIGNATING AN OVERPASS IN THE TOWN OF SOMERSET AS THE JOHN MARSHALL OVERPASS.

Be it enacted, etc., as follows:

The overpass spanning state highway route 195 on Brayton point road in the town of Somerset shall be designated and known as the John Marshall overpass. Suitable markers bearing said designation shall be attached thereto by the department of highways in compliance with the standards of said department.

Approved August 28, 1998.

Chapter 311. AN ACT ESTABLISHING THE WELLESLEY HOUSING DEVELOPMENT CORPORATION.

Be it enacted, etc., as follows:

SECTION 1. There is hereby established a nonprofit housing corporation to be known as the Wellesley Housing Development Corporation, which shall be subject to the supervision of the board of selectmen of the town of Wellesley. Said corporation shall be governed by a board of directors hereinafter referred to as the board. Said board, which is hereby established, shall consist of not less than five members who shall be residents of said town and who shall be appointed by the board of selectmen for staggered three year terms as designated by said board of selectmen. Such appointments shall be made on or before June 30. Members shall serve until their successors are appointed and qualified. Continuing members may act despite a vacancy in said board and, for this purpose, shall be deemed to constitute a full board. A vacancy in the board, however occurring, may be filled by said board of selectmen for the remainder of the unexpired portion of the term.

The board shall exercise its powers and perform its duties for the purpose of investigating and implementing alternatives for the provision of and providing affordable housing for persons of low, moderate and middle income and others whose needs may be identified from time to time in said town. The powers and duties of said board shall be alternative and supplemental to, and not in limitation of, the powers and duties of the Wellesley Housing Authority, established pursuant to chapter 121B of the General Laws. The liability of said board and its members shall be limited to the same extent as the liability of a public employer and public employees as provided in section 2 of chapter 258 of the General Laws.

SECTION 2. The board shall have the powers conferred by the provisions of paragraphs (a) to (i), inclusive, and paragraph (k) of section 9 of chapter 156B of the General Laws and the following powers; provided, however, that no such power shall be exercised either in a manner inconsistent with this act or any other general or special law or to carry on any activity which is not in furtherance of the purposes set forth herein:

(a) to adopt, amend and repeal corporate by-laws for the regulation and conduct of its business including, but not limited to, the call and conduct of its meetings, the number of members which shall constitute a quorum and the mode of voting by proxy;

(b) to elect a chairman and vice-chairman, each of whom shall be members of said board, and a secretary and a treasurer, who need not be members of said board and who may be the same person. The treasurer shall give bond for the faithful performance of his duties in a form and amount approved and affixed by the board of selectmen, the cost of which bond shall be paid from funds of said board. The chairman and, in his absence, the vice-chairman shall chair meetings of said board. The secretary shall be the custodian of all books, documents and papers filed with said board and of the minute book or journal of said board;

(c) with the approval of the board of selectmen, to make and execute all contracts and all other instruments necessary or convenient for the exercise of its power and functions, subject to approval of the town counsel as to form;

(d) with the approval of the board of selectmen, to acquire or lease, by purchase, gift or otherwise, and to own, hold and use, on such terms and conditions and in such manner as it may deem proper, and to exchange, grant options on, sell, transfer, convey, assign, lease, pledge, mortgage, encumber, grant liens on and security interests in, or to otherwise dispose of, on such terms and conditions as it may deem proper, real, personal or mixed real and personal property or any interest, easements or rights therein and assets or revenues of said board, as may be necessary or appropriate to carry out its purposes, it being understood that said board's right to acquire or sell town owned real estate shall be subject to town meeting vote authorizing the same;

(e) with the approval of the board of selectmen, to enter into agreements or other transactions with the commonwealth or a political subdivision or public instrumentality thereof, the United States government or a federal, state or other governmental agency;

(f) with the approval of the board of selectmen, to borrow money and to execute notes therefor which shall not be deemed to be debts or obligations of said town, to hold mortgages and to invest any funds not required for immediate disbursement in such investments as may be lawful for fiduciaries in the commonwealth; provided, however, that said board shall have no stock;

(g) with the approval of the board of selectmen, to enter into contracts or agreements with, and to employ from time to time, contractors, architects, engineers, consultants, attorneys, accountants, construction, financial and other experts, superintendents, managers and such other agents and employees as may be necessary in its judgment and to fix their compensation;

(h) with the approval of the board of selectmen, to receive and hold funds appropriated by the town and other funds, property, labor and other things of value from any source, public or private, by gift, grant, bequest, loan or otherwise, either absolutely or in trust, and to expend or utilize the same on behalf of said board for any of its purposes or to act as an agent or conduit in administering or disbursing funds or financial or other aid from any source; provided, however, that all revenues collected or received by said board in connection with its activities, investments or transactions shall be expended only with the approval of said board of selectmen;

(i) to appear in its own behalf before boards, commissions, departments or other agencies of government, municipal, state or federal;

(j) to procure insurance against any loss in connection with the property or activities of said board, in such amounts and from such insurers as it may deem necessary or desirable and, with the approval of the board of selectmen, to indemnify its members or agents if and to the extent specified from time to time in the by-laws of said board and subject to and in the manner provided in section 6 of chapter 180 of the General Laws;

(k) to formulate and, with the approval of the board of selectmen, carry out or monitor plans for projects involving the acquisition or operation of housing facilities of any kind or nature and to construct, reconstruct, renovate, expand, extend, improve, repair, remodel, equip, furnish, maintain, manage and operate such facilities;

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(l) with the approval of the board of selectmen, to fix and revise from time to time and to charge and collect rates, fees, rentals and other charges and sales prices for or in connection with the use, occupancy or other disposition of any housing facility or other property or portion thereof under its ownership or control;

(m) with the approval of the board of selectmen, to establish, impose, grant or amend, by deed, lease or other means or method, and to hold the benefit of, monitor, exercise and enforce lawful restrictions on the rental, sale, resale, use or occupancy of housing facilities or other property under its ownership or control or other facilities or property designated by said board of selectmen or restrictions with respect to the income of owners, tenants or occupants of such housing facilities or other property or options and rights of first refusal with respect to such facilities or property and to waive, release or discharge any such rights or restrictions; provided, however, that the foregoing shall not apply to any town owned real estate or facilities except upon the vote of the town meeting so voting;

(n) with the approval of the board of selectmen, to enter into, perform or monitor agreements or other transactions with contractors, developers, brokers or other real estate professionals or any other person relating to the providing of affordable housing for persons of low and moderate income in the town;

(o) to do any and all things necessary or convenient to carry out its purposes and exercise the powers conferred by this act.

Said board may delegate to any subcommittee or member of the committee any action which said board is authorized to do or make. Said board may be a partner in any business enterprise which it would have power to conduct by itself.

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, the income, assets and activities of the board shall be exempt from all taxes and assessments and said board shall not be subject to any of the provisions of chapter 63 of the General Laws or to any taxes based upon or measured by property or income imposed by the commonwealth or by any political subdivision thereof. Said board may enter into agreements with the assessor of the town of Wellesley, with the approval of the board of selectmen, wherein said board shall undertake to make to said town annual payments in lieu of taxes in connection with any real property acquired and owned by said board, the amounts of such payments to be reasonable sums stipulated in such agreement or agreements or determined in accordance with a reasonable formula so stipulated.

SECTION 4. Without limiting the powers of the board, said board may receive, expend and utilize for its purposes all interests in town owned real estate and proceeds of the sale by the town of Wellesley of certain lands, properties, and surplus buildings, as voted by said town but not otherwise. In addition, said town may appropriate other funds for the carrying out by said board of its purposes as set forth herein. Any appropriation therefor may be raised by said town by taxation. At least annually, said board shall cause independent audits to be made of its books and records of said board, which annual audits shall be filed with the board of selectmen.

SECTION 5. In the event that the board shall be dissolved in accordance with law

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at any time, all property and interests therein, assets and rights of said board existing at such time shall be transferred to the town of Wellesley and title to all such property and all such rights shall vest in said town automatically without the need for further action or instrument, and said town shall, to the maximum extent permitted by law and acting by and through its board of selectmen, assume, hold and exercise the powers and duties of said board set forth herein with respect to such property and rights so transferred to said town.

SECTION 6. This act shall take effect upon its passage.

Approved August 28, 1998.

**Chapter 312. AN ACT RELATIVE TO THE QUALIFICATIONS OF
COMMISSIONER OF CODE ENFORCEMENT IN THE CITY OF
SPRINGFIELD.**

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 194 of the acts of 1991 is hereby amended by striking out the first sentence and inserting in place thereof the following five sentences:- The commissioner shall be an architect, as defined in section 60A of chapter 112 of the General Laws or a professional engineer, as defined in section 81D of said chapter 112 or shall have had at least five years of experience in the supervision of building construction or design, or in the alternative, a four year undergraduate degree in a field related to building construction or design, or any combination of education and experience which would confer equivalent knowledge and ability, as determined by the state board of building regulations and standards. Said commissioner shall also have general knowledge of the accepted requirements for building construction, fire prevention, light, ventilation and safe egress, as well as a general knowledge of the other equipment and materials essential for safety, comfort, and convenience of the occupants of a building or structure. Said commissioner shall be certified by said state board of building regulations and standards in accordance with the provisions of section 3 of chapter 143 of the General Laws. The city of Springfield may require additional qualifications or experience as it deems necessary. Said commissioner shall be subject to the residency ordinance of said city.

SECTION 2. This act shall take effect upon its passage.

Approved August 28, 1998.

**Chapter 313. AN ACT PROVIDING FOR THE CONSTRUCTION OF CERTAIN
FACILITIES OF THE MASSACHUSETTS PORT AUTHORITY.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for the construction of certain facilities of the Massachusetts Port

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Authority, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 6 of chapter 64H of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "purposes;", in line 49, the following words:- and (3) any building, structure, residence, school or other facility included under any written contract arising out of or related to the Massachusetts Port Authority residential and school soundproofing programs, notwithstanding whether such building, structure, residence, school or other facility is owned by or held in trust for the benefit of the Massachusetts Port Authority or is used exclusively for public purposes.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Port Authority may utilize alternative methods for the procurement of design and construction services for Terminal A at Logan International Airport without such procurement being subject to the competitive bid processes set forth in sections 38A½ to 38 O, inclusive, of chapter 7 of the General Laws, section 39M of chapter 30 of the General Laws and sections 44A to 44M, inclusive, of chapter 149 of the General Laws. The Massachusetts Port Authority shall develop procedures for alternative methods of procurement in consultation with the office of the inspector general and the division of capital asset management and maintenance; provided, however, that said division shall otherwise have no jurisdiction over the project. Final procedures shall be submitted to the inspector general and the commissioner of capital asset management and maintenance for comment at least 45 days prior to the solicitation of proposals for design or construction services. Such procedures and the inspector general's comments shall be submitted to the joint committee on transportation, the secretary of administration and finance, the house and senate committees on ways and means and the senate and house clerks by the Massachusetts Port Authority at least 30 days prior to the solicitation of proposals for design or construction services.

Approved August 28, 1998.

**Chapter 314. AN ACT REQUIRING THE ESTABLISHMENT OF SENIOR
CITIZEN SAFETY ZONES IN THE CITY OF MALDEN.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the city of Malden shall designate areas within said city as senior citizen safety zones. The traffic commission of said city, in consultation with the department of public works, may erect flashing lights and post signs bearing such designation and to establish appropriate speed

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limits for such zones. Said traffic commission may adopt, from time to time, rules and regulations to carry out the provisions of this act.

Approved September 2, 1998.

Chapter 315. AN ACT DIRECTING THE STATE SECRETARY TO PLACE A CERTAIN NONBINDING QUESTION ON THE BIENNIAL STATE ELECTION BALLOT IN THE CITY OF SPRINGFIELD IN THE CURRENT YEAR.

Be it enacted, etc., as follows:

SECTION 1. For the purpose of ascertaining the will of the people of the city of Springfield, the state secretary shall cause the following nonbinding question to be placed on the official ballot to be used in said city at the biennial state election to be held in the year 1998:

Should a pilot needle exchange program be implemented in the city of Springfield?

SECTION 2. This act shall take effect upon its passage.

Approved September 3, 1998.

Chapter 316. AN ACT AUTHORIZING THE MASSACHUSETTS WATER RESOURCES AUTHORITY TO GRANT ACCESS TO ITS SEWER SYSTEM TO CERTAIN PROPERTY IN THE TOWN OF SHARON.

Be it enacted, etc., as follows:

Notwithstanding the provisions of chapter 372 of the acts of 1984 or any other general or special law to the contrary, the Massachusetts Water Resources Authority may allow the property located at 450 North Main street in the town of Sharon, as shown on a deed recorded in the Norfolk county registry of deeds, Book 10698, Page 580 and on the Assessor's Map 122, Block 22 Lot 000, Book 4270, Page 233, which premises are owned by Jeri A. Heinberg, to tie into the sewer system of said authority and to use and be serviced by said sewer system to the same extent as parcels of property located within the district covered by said authority. All costs and expenses incurred for labor and materials relative to the installation of such sewer tie-in shall be paid by said Jeri A. Heinberg; provided, however, that all work and labor shall be performed in accordance with the specifications of said authority. Said authority may assess a charge upon the owner of said property for the use of such sewer system and for the provision of services related thereto.

Emergency Letter: September 4, 1998 @ 9:47 A.M.

Approved September 3, 1998.

Chapter 317. AN ACT EXEMPTING THE POSITION OF SCHOOL NURSE IN THE TOWN OF BROOKLINE FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The position of nurse in the school department of the town of Brookline shall be exempt from the provisions of chapters 31 and 31A of the General Laws.

SECTION 2. This act shall take effect upon its passage.

Approved September 3, 1998.

Chapter 318. AN ACT AUTHORIZING THE TOWN OF CLINTON TO REIMBURSE CERTAIN REAL PROPERTY TAXES.

Be it enacted, etc., as follows:

SECTION 1. The town of Clinton is hereby authorized to reimburse the estate of Helen P. Hutchinson the sum of \$1,181.29 with interest for real property taxes, paid to said town in error for the fiscal years 1987 to 1996, inclusive, on property located at 116 Walnut street in said town.

SECTION 2. This act shall take effect upon its passage.

Approved September 3, 1998.

Chapter 319. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 1998 TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to make appropriations and transfers for fiscal year 1998 and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 1998 and for certain other activities and projects in said fiscal year, the sums set forth in section 2 are hereby appropriated from the general fund unless specifically designated otherwise herein or in said appropriation acts, for the several purposes and subject to the conditions specified herein or in said appropriation acts and subject to the provisions of law regulating the disbursement of public funds for the

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fiscal year ending June 30, 1998. The sums appropriated herein shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

SECTION 2.

JUDICIARY.

Committee for Public Counsel Services.

0321-1510	\$8,225,000
0321-1512	\$4,900,000
0321-1520	\$933,538

DISTRICT ATTORNEYS.

Hampden District Attorney.

0340-0500	\$149,031
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SECRETARY OF STATE.

0521-0001	\$514,607
0527-0100	\$2,800

TREASURER AND RECEIVER-GENERAL.

Office of the Treasurer and Receiver-General.

0699-9200	\$2,453,587
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ATTORNEY GENERAL.

Commission on Uniform State Laws.

0830-0100	\$2,304
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EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Disabled Persons Protection Commission.

1107-2501	\$30,994
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Group Insurance Commission.

1108-5200	\$19,426,586
1108-5400	\$40,000
1108-5500	\$16,281

Department of Veterans' Services.

1410-0620	\$3,865,000
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Reserves.

1599-0036	\$1,522,942
1599-3845	\$2,846,776

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Metropolitan District Commission.

2440-0010	\$100,000
2440-2000	\$42,837
2444-9005	\$354,269

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Division of Medical Assistance.

4000-0860	\$22,700,000
4000-0870	\$31,650,499

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<i>Office of Child Care Services.</i>		
4130-3700	\$500,000
<i>Department of Public Health.</i>		
4590-0906	.....	\$900,000
EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.		
<i>Office of the Secretary.</i>		
6005-0015	.....	\$807,586
<i>Department of Highways.</i>		
6030-7201	.....	\$3,403,337
EXECUTIVE OFFICE OF LABOR, EDUCATION AND WORKFORCE DEVELOPMENT.		
<i>Department of Housing and Community Development.</i>		
7004-9201	.....	\$217,506
<i>Department of Economic Development.</i>		
7007-0900	.....	\$1,603,096
7007-1000	.....	\$761,471
7007-1300	.....	\$120,232
EXECUTIVE OFFICE OF PUBLIC SAFETY.		
<i>Office of the Secretary.</i>		
8000-0040	.....	\$68,975
<i>Department of State Police.</i>		
8100-0007	.....	\$1,137,000
8100-9999	.....	\$325,000
<i>Department of Correction.</i>		
8900-8888	.....	\$447,190
8900-9999	.....	\$968,806

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations and to meet certain requirements of law, the sums set forth herein are hereby appropriated from the general fund unless specifically designated otherwise herein, for the several purposes and subject to the conditions specified herein, and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 1998. The sums appropriated herein shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

<i>Reserves.</i>		
1599-3384	For a reserve for the payment of certain court judgments, settlements and legal fees, in accordance with regulations promulgated by the comptroller, which were ordered to be paid in fiscal year 1998 or a prior fiscal year	\$6,500,000
1599-3878	For a reserve for payment of costs and attorneys fees for special assistant attorneys general to handle Commonwealth	

	v. Ruggles Center Joint Venture, et. al., Suffolk Superior Court, Civil Action Number 97-1764A, and related litigation concerning the registry of motor vehicles' building at Ruggles center	\$500,000
1599-9711	For the costs and liabilities of Middlesex county; provided, that no payments shall be made to vendors from this item until the commonwealth obtains a release of obligation executed by each such vendor which stipulates that any such payment is in complete satisfaction of any claim by such vendor against said county and the commonwealth	\$5,799,425
	Local Aid Fund	100.0%
1599-9713	For the payment of certain costs and liabilities of Hampden county including, but not limited to, payments for interest and principal on bonds and notes issued by said county that are either overdue or about to become due; provided, that such funds that shall not be expended for the payment of vendors until the commonwealth obtains a release of obligation executed by each such vendor which shall be in complete satisfaction of any claim by such vendor against said county and the commonwealth	\$4,006,508
	Local Aid Fund	100.0%
1599-9714	For the payment of certain costs and liabilities of Worcester county including, but not limited to, payments owed to vendors of Worcester county hospital and for interest and principal on bonds and notes issued by said county that are either overdue or about to become due; provided, that such funds that shall not be expended for the payment of vendors until the commonwealth obtains a release of obligation executed by each such vendor which shall be in complete satisfaction of any claim by such vendor against said county and the commonwealth	\$10,920,246
	Local Aid Fund	100.0%
1599-9715	For the payment of certain costs and liabilities of Hampshire county including, but not limited to, payments owed to vendors of the Hampshire county health care facility and for interest and principal on bonds and notes issued by said county that are either overdue or about to become due; provided, that such funds shall not be expended for the payment of vendors until the commonwealth obtains a release of obligation executed by each such vendor which	

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shall be in complete satisfaction of any claim by such
vendor against said county and the commonwealth \$2,100,000
Local Aid Fund 100.0%

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Division of Medical Assistance

4000-0440 For the payment of prior fiscal years' expenses for a program
of medical services for disabled children and adults \$1,700,000

Department of Transitional Assistance.

4405-2010 For the payment of prior fiscal years' expenses for special
grants recipients of the state supplement to the supplement-
tal security income program residing in rest homes;
provided, that all expenditures made from this item shall
be subject to the provisions of item 4405-2000 of section
2 of chapter 151 of the acts of 1996 \$150,000
4408-1010 For the payment of prior fiscal years' expenses of health
services provided to recipients of emergency aid to the
elderly, disabled, and children; provided, that all expendi-
tures made from this item shall be subject to the provisions
of item 4408-1000 of section 2 of chapter 151 of the acts
of 1996 \$700,000

**EXECUTIVE OFFICE OF LABOR, EDUCATION AND WORKFORCE
DEVELOPMENT.**

Board of Higher Education.

7066-0002 For the completion of the community college faculty equity
study, so-called, as mandated in Massachusetts Community
College Council v. Commonwealth of Massachusetts and
consolidated cases \$200,000

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Massachusetts Emergency Management Agency.

8800-0056 For the commonwealth's share of the individual and family
grant program, so-called, to assist homeowners who meet
said program's financial criteria; provided, that \$30,000
from this item may be expended for administrative
purposes \$1,530,000

SECTION 2B. To provide for supplementing certain intragovernmental chargeback
authorizations in the general appropriation act and other appropriation acts for fiscal year
1998, to provide for certain unanticipated intragovernmental chargeback authorizations, to

provide for an alteration of purpose for current intragovernmental chargeback authorizations and to meet certain requirements of law, the sums set forth herein are hereby authorized from the Intragovernmental Service Fund for the several purposes specified herein or in said appropriation acts and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 1998. The sums authorized herein shall be in addition to any amounts previously authorized and made available for the purposes of said items.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Reserves.

1599-3102 \$122,000

SECTION 2C.I. For the purpose of making available in fiscal year 1999 the balances of appropriations which otherwise would revert on June 30, 1998, the unexpended balances of the maintenance appropriations listed below, not to exceed the amount specified below for each item, are hereby re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section 2 of the general appropriation act for fiscal year 1999; provided, however, that for items which do not appear in said section 2 of said general appropriation act, the amounts in this section are re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section 2 or 2A of this act or in prior appropriation acts. Amounts in this section are re-appropriated from the funds designated for the corresponding item in said section 2 of said general appropriation act; provided, however, that for items which do not appear in said section 2 of said general appropriation act, the amounts in this section are re-appropriated from the funds designated for the corresponding item in section 2 or 2A of this act or in prior appropriation acts. The sums re-appropriated herein shall be in addition to any amounts available for said purposes.

JUDICIARY.

Appeals Court.

0322-0100 \$80,000

Trial Court.

0330-2202 \$2,302,507

0337-0003 \$4,365,300

DISTRICT ATTORNEYS.

Plymouth District Attorney.

0340-0800 \$37,000

SECRETARY OF STATE.

0527-0100 \$2,800

TREASURER AND RECEIVER-GENERAL.

Office of the Treasurer and Receiver-General.

0699-9200 \$2,453,587

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Office of the Secretary.

1100-1101 \$145,000

Department of Veterans' Services.

1410-0620 \$5,365,000

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<i>Reserves.</i>	
1599-0036	\$1,522,942
1599-3384	\$6,500,000
1599-3845	\$12,734,076
1599-3862	\$400,000
1599-3878	\$500,000
1599-9711	\$7,151,242
1599-9713	\$4,006,508
1599-9714	\$10,920,246
1599-9715	\$2,100,000
<i>Information Technology Division.</i>	
1790-0107	\$4,500,000
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.	
<i>Office of the Secretary.</i>	
2010-0100	\$130,000
<i>Department of Environmental Management.</i>	
2100-0005	\$6,929,640
2100-2045	\$74,612
<i>Department of Fisheries, Wildlife and Environmental Law Enforcement.</i>	
2320-0200	\$50,000
2330-0120	\$60,000
<i>Metropolitan District Commission.</i>	
2440-0010	\$2,930,000
2440-1203	\$50,000
<i>Department of Food and Agriculture.</i>	
2520-0300	\$16,438
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.	
<i>Office of the Secretary.</i>	
4000-0100	\$60,000
<i>Department of Social Services.</i>	
4800-1996	\$751,349
EXECUTIVE OFFICE OF LABOR, EDUCATION AND WORKFORCE DEVELOPMENT.	
<i>Alcoholic Beverages Control Commission.</i>	
7006-0100	\$22,000
<i>Department of Economic Development.</i>	
7007-0900	\$1,603,096
7007-1000	\$761,471
7007-1300	\$120,232
<i>Board of Higher Education.</i>	
7066-0002	\$200,000

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Office of the Secretary.

8001-1900 \$5,010,170

Massachusetts Emergency Management Agency.

8800-0032 \$39,036

8800-0034 \$1,325,270

8800-0051 \$119,702

8800-0056 \$1,530,000

Department of Correction.

8900-0019 \$1,000,000

EXECUTIVE OFFICE OF ELDER AFFAIRS.

Office of the Secretary.

9110-0100 \$100,000

SECTION 3. Section 2I of chapter 29 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 8, the words "August fifteenth" and inserting in place thereof the following:- October 31.

SECTION 4. The second paragraph of section 2T of said chapter 29, as so appearing, is hereby amended by adding the following sentence:- The comptroller shall transfer to the general fund those payments received from the Massachusetts Water Resources Authority as reimbursement for debt service payments charged to said general fund.

SECTION 5. Section 31 of said chapter 29, as so appearing, is hereby amended by adding the following paragraph:-

The state treasurer or other state official authorized to expend money on behalf of the commonwealth may comply with administrative wage garnishments issued by the federal government for nonpayment of student loans by employees of the commonwealth, by paying to the federal government not more than 10 per cent of the employee's salary or wages. For the purposes of this section, the term "employee" shall mean "employee" as defined in section 1 of chapter 32.

SECTION 6. Section 1 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words "nineteen hundred and eighty-eight" and inserting in place thereof the following figure:- 1998.

SECTION 7. Said chapter 62 is hereby further amended by inserting after section 10 the following section:-

Section 10A. (a) A qualified funeral trust shall have the same meaning as in the Code, as amended, on January 1, 1998, effective for taxable years ending on or after August 5, 1997.

SECTION 8. Section 113A of chapter 92 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following sentence:- The comptroller shall transfer to the general fund those payments received from the Massachusetts Water Resources Authority as reimbursement for debt service payments charged to said general fund.

SECTION 9. The fourth sentence of subsection (o) of section 18 of chapter 118G of the General Laws, inserted by section 27 of chapter 170 of the acts of 1997, is hereby amended by striking out the words "payments in anticipation of receipts" and inserting in place thereof:- payments, including payments during the accounts payable period, in anticipation of revenues, including receivables due and collectibles during the months of July and August,.

SECTION 10. The first sentence of paragraph (d) of section 1 of chapter 773 of the acts of 1960, as appearing in section 2 of chapter 684 of the acts of 1963, is hereby amended by striking out the words "the demolition or removal of any buildings or structures on land so acquired or interests in which are so acquired and site preparation" and inserting in place thereof the following words:- the demolition or removal of any buildings or structures, including buildings or structures owned by the commonwealth, on land so acquired or interests in which are so acquired and site preparation.

SECTION 11. The first sentence of the fourth paragraph of section 2 of said chapter 773, as appearing in section 12 of chapter 267 of the acts of 1995, is hereby amended by striking out the word "Seven" and inserting in place thereof the following word:- Six.

SECTION 12. Section 4 of said chapter 773 is hereby amended by striking out clause (c), as appearing in section 5 of chapter 684 of the acts of 1963, and inserting in place thereof the following clause:-

(c) To maintain offices in the town of Amherst and elsewhere within the commonwealth and to conduct meetings of the authority in accordance with the by-laws of said authority and the provisions of the second paragraph of section 59 of chapter 156B of the General Laws.

SECTION 13. Section 7 of said chapter 773 is hereby amended by striking out the second paragraph, as appearing in section 11 of chapter 684 of the acts of 1963.

SECTION 14. Section 10 of said chapter 773, as most recently amended by section 15 of chapter 267 of the acts of 1995, is hereby further amended by striking out the words "one hundred and eighty-two" and inserting in place thereof the following figure:- \$200.

SECTION 15. Section 18 of said chapter 773 is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The provisions of sections 26 to 29, inclusive, and of sections 44A to 44H, inclusive, of chapter 149 of the General Laws, and sections 39F to 39P, inclusive, and section 39R of chapter 30 of the General Laws are hereby made applicable to the authority. Notwithstanding the foregoing, for projects for which not less than one-half of the funds are from nongovernmental sources, with the approval of the governor, said authority may use an alternative mode of procurement of design and construction including, but not limited to, sequential, construction management, turnkey, design/build procurement and the phasing of such procurement including, but not limited to, approval of design and construction stages as separate or combined phases, which shall most efficiently, economically and best serve the interests of said authority. In all cases, said authority shall use procedures which shall be compatible with the policies and procedures for the selection of designers in sections 38A½ to 38 O, inclusive, of chapter 7 of the General Laws and with the policies and procedures for

the selection of contractors in sections 44A to 44H, inclusive, of chapter 149 of the General Laws to the extent feasible in light of the mode selected.

SECTION 16. Item 0321-1510 of section 2 of chapter 43 of the acts of 1997 is hereby amended by striking out the words "fiscal year 1998 only" and inserting in place thereof the following words:- fiscal year 1998 and prior years' bills.

SECTION 17. Said item 0321-1510 of said section 2 of said chapter 43 is hereby further amended by inserting after the words "funds to item 0321-1512" the following words:- and to item 0321-1520.

SECTION 18. Item 0321-1512 of said section 2 of said chapter 43 is hereby amended by striking out the words "fiscal year 1998 only" and inserting in place thereof the following words:- fiscal year 1998 and prior years' bills.

SECTION 19. Said item 0321-1512 of said section 2 of said chapter 43 is hereby further amended by inserting after the words "funds to item 0321-1510" the following words:- and to item 0321-1520.

SECTION 20. Item 0321-1520 of said section 2 of said chapter 43 is hereby amended by striking out, in line 7, the word "only".

SECTION 20A. Said item 0321-1520 is hereby further amended by adding the following words:- and prior years bills; and provided further, that the chief counsel may transfer funds to item 0321-1510 and to item 0321-1512 as necessary pursuant to schedules submitted to the house and senate committees on ways and means 30 days prior to any such transfer.

SECTION 21. Said section 2 of said chapter 43 is hereby further amended by striking out item 0699-9100 and inserting in place thereof the following item:-

0699-9100 For the payment of interest and issuance costs on bonds and bond and revenue anticipation notes and other notes pursuant to sections 47 and 49B of chapter 29 of the General Laws; provided, that the state treasurer shall certify to the comptroller a schedule of the distribution of such costs among the various funds of the commonwealth; provided further, that the comptroller shall charge such costs to such funds in accordance with such schedule; provided further, that any deficit in this item at the close of the fiscal year ending June 30, 1998 shall be charged to the various funds or to the general fund or Highway Fund debt service reserves; and provided further, that the unexpended balance remaining in this item at the end of the fiscal year or \$25,000,000, whichever is less, shall be deposited with the trustee under the trust agreement authorized in section 10B of chapter 11 of the acts of 1997 to be used to pay the interest due in fiscal year 1999 or thereafter on notes of the commonwealth issued pursuant to section 9 of said chapter 11 and secured by the Federal Highway Grant Anticipation

Note Trust Fund \$27,145,945

SECTION 22. Item 0830-0100 of said section 2 of said chapter 43 is hereby amended by adding the following words:- including prior years' bills.

SECTION 23. Item 1107-2501 of said section 2 of said chapter 43 is hereby amended by inserting after the words "Massachusetts rehabilitation commission" the following words:- , including prior years' bills.

SECTION 24. Said section 2 of said chapter 43 is hereby further amended by striking out item 2100-2030 and inserting in place thereof the following item:-

2100-2030 For the recreational and resource conservation operations of the department; provided, that funds appropriated herein shall be used to operate all of the department's parks, heritage state parks, reservations, campgrounds, beaches and pools and for the oversight of rinks; provided further, that funds appropriated herein shall be used to protect and manage the department's lands and natural resources, including the forest and parks conservation services and the bureau of forestry developments; provided further, that \$35,000 shall be expended for a supervisor at Lake Whitehall in the town of Hopkinton; provided further, that not less than \$15,000 shall be expended on the preparation and distribution of campground directories; provided further, that no funds from this item shall be made available for payment to true seasonal employees, so-called; provided further, that the city of Newburyport shall receive a grant for the completion of purchase and installation of three new floats in the Merrimack river in the city of Newburyport; provided further, that not less than \$125,000 shall be obligated for the Schooner Ernestina commission; provided further, that said commission shall submit a management plan to the house and senate committees on ways and means not later than April 1, 1998; provided further, that the department shall study the feasibility of making the operations of said commission self-sufficient which shall include, but not be limited to, a cost-benefit analysis and the phase-out of the state subsidy by the year 2001; provided further, that such study shall be filed with the house and senate committees on ways and means not later than March 2, 1998; provided further, that \$52,500 shall be expended for phase two, so-called, for the improvement and preservation of the Craigville pond and Centerville river system, known as the Red Lily Pond Restoration Project; provided further, that the department

shall enter into contracts with the Red Lily Pond Project Association; provided further, that the department shall expend \$180,000 for the purchase of a brush breaker, so-called, to be used for the state parks located in the town of Plymouth; and provided further, that \$237,829 shall be expended for payments owed, including prior fiscal years, to certain current and former employees as a result of the new classification specification for the department's forester series as approved by the office of employee relations \$19,275,747

SECTION 25. Item 4130-3200 of said section 2 of said chapter 43 is hereby amended by striking out the words "Child Care Fund 72.50%" and "General Fund 27.50%" and inserting in place thereof the following words:-

Child Care Fund 64.48%
General Fund 35.52%

SECTION 26. Item 4800-0015 of said section 2 of said chapter 43 is hereby amended by striking out the words "General Fund 85.0%" and "Social Services Program Fund 15.0%" and inserting in place thereof the following words:-

General Fund 89.0%
Social Services Program Fund 11.0%

SECTION 27. Item 4800-1400 of said section 2 of said chapter 43 is hereby amended by striking out the words "Social Services Program Fund 100.0%" and inserting in place thereof the following words:-

Social Services Program Fund 95.80%
General Fund 4.20%

SECTION 28. Item 1599-3850 of section 2A of chapter 99 of the acts of 1998 is hereby amended by striking out the item number "1599-3850" and inserting in place thereof the following item number:- 1599-3861.

SECTION 29. Item 1599-3851 of said section 2A of said chapter 99 is hereby amended by striking out the item number "1599-3851" and inserting in place thereof the following item number:- 1599-3862.

SECTION 30. Item 0411-1000 of section 2 of the general appropriation act for fiscal year 1999 is hereby amended by adding the following words:- , prior appropriation continued.

SECTION 31. Item 0540-1100 of said section 2 of said general appropriation act is hereby amended by striking out the figure "\$447,393" and inserting in place thereof the following figure:- \$453,493.

SECTION 32. Said section 2 of said general appropriation act for fiscal year 1999 is hereby further amended by striking out item 1201-0160 and inserting in place thereof the following item:-

1201-0160 For the child support enforcement unit; provided, that the department may allocate funds appropriated herein to the department of state police, the district courts, the probate

and family courts, the district attorneys and other state agencies for the performance of certain child support enforcement activities and that such agencies may expend such funds for the purposes of this item; provided further, that all such allocations shall be reported quarterly to the house and senate committees on ways and means upon the allocation of such funds; provided further, that federal receipts associated with the child support computer network shall be drawn down at the highest possible rate of reimbursement and deposited into a revolving account to be expended for said network; provided further, that federal receipts associated with child support enforcement grants shall be deposited into a revolving account to be drawn down at the highest possible rate of reimbursement and to be expended for the grant authority, so-called; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means detailing the balance, year-to-date and projected receipts and year-to-date and projected expenditures, by subsidiary, of the child support trust fund established pursuant to section 9 of chapter 119A of the General Laws; and provided further, that the department shall file a performance report with the house and senate committees on ways and means on or before January 15, 1999 detailing current staffing levels by function and performance indicators, including, but not limited to, TAFDC and non-TAFDC caseloads, collection levels, court cases, paternities established, court orders established, average employee workload, federal reimbursements, projections of such indicators for the remainder of the fiscal year and any deviations of current performance from previous projections \$44,127,335

SECTION 33. Item 1410-0400 of said section 2 of said general appropriation act is hereby amended by inserting after the words "Memorial day;" the following words:- provided further, that subject to the approval of the commissioner, not less than \$147,473 shall be paid to the town of Oxford as reimbursement for veterans' benefits paid by said town in 1991 to 1994, inclusive;

SECTION 34. Item 2350-0100 of said section 2 of said general appropriation act for fiscal year 1999 is hereby amended by striking out the figure "\$9,208,025" and inserting in place thereof the following figure:- \$9,458,025.

SECTION 35. Said section 2 of said general appropriation act is hereby further

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amended by inserting after item 4400-1100 the following item:-

4400-8998 For the acquisition of computer software for the BEACON project, so-called \$1,184,500

SECTION 36. Said section 2 of said general appropriation act is hereby further amended by inserting after item 8910-0108 the following two items:-

8910-1000 For a prison industries revenue retention account for the Hampden sheriff's department; provided, that the department may expend an amount not to exceed \$488,554 from revenues collected from the sale of products, for materials, supplies, equipment, maintenance of facilities and compensation of employees of the program; and provided further, that all expenditures from this item shall be subject to the provisions of chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system, so-called \$488,554

8910-1100 For a prison industries revenue retention account for the Middlesex sheriff's department; provided, that the department may expend an amount not to exceed \$75,000 from revenues collected from the sale of products, for materials, supplies, equipment, maintenance of facilities and compensation of employees of the program; and provided further, that all expenditures from this item shall be subject to the provisions of chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system, so-called \$75,000

SECTION 37. Said general appropriation act is hereby further amended by inserting after section 220 the following section:-

Section 220A. Said chapter 217 is hereby further amended by adding the following section:-

Section 29H. The first justice of the Hampshire probate court may, with the approval of the chief justice of the probate court, designate two employees as deputy assistant registers with the same powers as assistant registers and may revoke any such designation at his pleasure. Such deputy assistant registers shall receive a salary in an amount equal to 15 per cent of the annual salary of the Hampshire county register of probate.

SECTION 37A. Said general appropriation act is hereby further amended by striking out section 225.

SECTION 38. Section 365 of said general appropriation act is hereby amended by striking out the words "not more than" and inserting in place thereof the following:- not less than.

SECTION 39. Notwithstanding the provisions of any general or special law to the contrary, a taxpayer who obtained an automatic extension of time to file his 1996 or 1997 Massachusetts income tax return pursuant to section 19 of chapter 62C of the General Laws

and who shall be reporting gain or loss from the sale or exchange of capital assets pursuant to the provisions of chapter 62 of the General Laws shall be allowed an automatic additional extension up to and including October 15, 1999 to file such return.

For the purposes of this section, the commissioner may require the taxpayer to file additional forms or to provide additional information as he deems to be reasonably necessary.

SECTION 40. Notwithstanding the provisions of any general or special law to the contrary, the unexpended balance of item 7007-0600 of section 2 of chapter 43 of the acts of 1997, not to exceed \$150,000, shall be carried forward into fiscal year 1999 and transferred to item 7006-1000 of section 2 of the general appropriation act for said fiscal year for the purposes of said item 7006-1000.

SECTION 41. Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance may expend \$39,563,174 from the intergovernmental transfer account, within the Uncompensated Care Trust Fund, pursuant to the provisions of subsection (o) of section 18 of chapter 118G of the General Laws, for costs incurred related to Title XIX reimbursable hospital services provided by the University of Massachusetts memorial hospital, or its predecessor state-operated hospital; provided, however, that the University of Massachusetts medical school shall transfer to said intergovernmental transfer account \$19,781,587 not later than August 1, 1998. Expenditures made pursuant to this section shall not create recurring liabilities to the commonwealth in future fiscal years.

SECTION 42. Notwithstanding the provisions of any general or special law to the contrary, the comptroller shall transfer as of June 30, 1998, into the Collective Bargaining Reserve Fund established by section 82 of chapter 120 of the acts of 1995 the sum of \$75,068,136 from the General Fund.

SECTION 43. Notwithstanding the provisions of any general or special law to the contrary, the board of higher education shall use funds appropriated in item 7066-0002 of section 2A for completion of the community college faculty equity study, so-called, as mandated in *Massachusetts Community College Council v. Commonwealth of Massachusetts* and consolidated cases.

SECTION 44. Notwithstanding the provisions of sections 6 and 11 of chapter 70 of the General Laws or any other general or special law to the contrary, a city or town that has entered into an agreement with the board and commissioner of education to avoid appointment of a receiver under section 1K of chapter 69 of the General Laws and, in the judgment of the commissioner of education: (1) does not have adequate school facilities to meet the educational needs of its public school students; and, (2) does not have the fiscal capacity to raise the funds needed to finance the municipal share of essential school construction, renovation or repair projects may establish a school construction reserve account and may, at the close of each fiscal year through the year 2002, transfer into such account all or a portion of any unexpended funds appropriated in any such year to fund school department operating expenses; provided, however, that: (1) the amount transferred to the school construction reserve account in any year shall not exceed 5 per cent of the school department's required net school spending budget for such fiscal year; (2) no such transfer

shall be made without the prior written approval of the commissioner of education; (3) funds deposited in such accounts, together with any interest or earnings on such deposits, shall be held in reserve by such city or town for the sole purpose of financing the direct costs or the debt service on bonds issued to fund the direct costs of department of education approved school construction, renovation or repair projects; (4) any funds held in a school construction reserve account that shows no activity other than earnings on deposits for a period of five years shall, in the following year, be transferred back to the school department as an amount in addition to city or town's required annual net school spending appropriation; provided further, that funds transferred back to a school department from an inactive school construction reserve account may be expended by the school committee for any undertaking the committee determines to be in furtherance of efforts to improve the educational programs and services provided to public school students. A city or town that establishes a school construction reserve account in accordance with this section may use funds held in such account to directly finance or to pay debt service on borrowing to finance approved school construction projects; provided, however, that funds from the reserve fund may be used only when and to the extent that the city or town lacks the fiscal capacity to meet its school construction financing obligations from other revenue sources. No withdrawal shall be made from a school construction reserve account of a city or town without the prior review and approval of the commissioner of revenue, who shall verify that such city or town lacks the capacity to meet its school construction financing obligations from other revenues. Notwithstanding any of the foregoing, any such municipality which has withdrawn funds from its school construction reserve account shall, within 20 years of each such withdrawal, repay the full amount withdrawn to the school department from which the reserve funds were originally transferred.

SECTION 44A. Notwithstanding the provisions of any general or special law to the contrary, if the general court overrides vetoes made by the governor which relate to the expenditure or transfer of fiscal year 1998 funds, said comptroller shall make adjustments to the fiscal year 1998 financial statements of the commonwealth to reflect the implementation of any such expenditure or transfer and shall, notwithstanding the provisions of chapter 7A or chapter 29 of the General Laws or any other general or special law to the contrary, attribute any such expenditure or transfer to said fiscal year 1998.

SECTION 45. This act shall take effect as of June 30, 1998.

This bill was returned on September 3, 1998, by the Lieutenant Governor-Acting Governor to the House of Representatives, the branch in which said bill was originated, with his objections in writing to the following items therein:

Items Disapproved:

SECTIONS 14, 37A, 38, and 44A

The remainder of the bill was approved by the Lieutenant Governor-Acting Governor on September 3, 1998 at five o'clock and five minutes, P.M.

Chapter 320. AN ACT RELATIVE TO ENTERING BY FALSE PRETENSES IN THE DAYTIME.

Be it enacted, etc., as follows:

Chapter 266 of the General Laws is hereby amended by inserting after section 18, as appearing in the 1996 Official Edition, the following section:-

Section 18A. Whoever enters a dwelling house by false pretenses, without breaking and with the intent to commit a felony, no person lawfully therein being put in fear, or whoever enters a dwelling house by false pretenses, without breaking and, after having entered, commits a larceny, as defined by section 30, no person lawfully therein being put in fear, shall be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than \$5,000 and imprisonment in a house of correction for not more than two years, or by both such fine and imprisonment.

Approved September 4, 1998.

Be it enacted, etc., as follows:

Chapter 321. AN ACT ESTABLISHING A BOARD OF REGISTRATION OF HEARING INSTRUMENT SPECIALISTS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 13 of the General Laws is hereby amended by adding, under the caption BOARD OF REGISTRATION OF HEARING INSTRUMENT SPECIALISTS, the following three sections:-

Section 93. There shall be a board of registration of hearing instrument specialists, hereinafter called the board in sections 93 to 95, inclusive, consisting of five members appointed by the director and one nonvoting advisory member who shall be a dispensing audiologist in private practice who has engaged in hearing aid dispensing for at least three years. Members of the board shall be citizens of the United States and residents of the commonwealth. One member shall be a hearing aid user who has no affiliation in any way with hearing aid dispensing, three members shall be hearing instrument specialists registered in the commonwealth with a minimum of five years experience in dispensing hearing aids and one member shall be a representative of the public who shall have neither hearing aid industry nor consumer affiliations. All board members shall be subject to the provisions of chapters 268A and 268B.

Appointments to the board shall be for a period of three years except for the initial appointments, two of which shall be for one year and the three remaining members for two years. No member shall be appointed for more than two consecutive full terms. In the event of a vacancy prior to the expiration of a term, the director shall appoint a person to fill the vacancy for the remainder of the unexpired term. The director may make the appointments using lists of candidates for members provided by the Massachusetts commission for the deaf and hard of hearing, with its advisory council, and the Massachusetts Hearing Aid Society

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and a list of candidates for the nonvoting advisory member audiologist from the Massachusetts Speech and Hearing Association. The hearing instrument specialists initially appointed to the board shall have a minimum of three years experience in dispensing hearing aids in the commonwealth and shall hold certification as a hearing instrument specialist from a national certifying body.

The board shall annually elect a chairman, by a majority vote, from its membership. A quorum of the board shall be three members. The board shall meet quarterly or more frequently upon the call of the chairman or upon the call of the majority of board members. Members shall receive no compensation for their services but shall be entitled to reasonable travel expenses for the purpose of attending board meetings; provided, however, that the expenses of the members of the board and the nonvoting advisory member audiologist, the cost of personnel providing services to the board and all other expenses associated with the operation of the board shall be generated by application and registration fees.

Section 94. The board shall establish the requirements for registration, establish standards of professional and ethical conduct, authorize and conduct appropriate examinations to determine the qualifications of applicants, grant registrations and licenses to qualified applicants, establish minimum procedures for reviewing and investigating complaints, investigate complaints and set and administer penalties as defined in section 200 of chapter 112 for fraudulent, deceptive, professionally incompetent and unsafe practices in hearing aid dispensing and for violations of the rules and regulations as promulgated by the board.

The board shall adopt such rules and regulations covering the details of the process of complaint investigation in conjunction with the director of registration, a systematic procedure for managing complaints, hearings, appeals and penalties, the process of registration, standards of practice of hearing aid dispensing, oversight and review and other such regulations as it may deem necessary in the performance of its duties.

The board shall annually compile a list of names and addresses of individuals licensed as hearing instrument specialists and apprentices in the commonwealth which shall be held by the board and made available to members of the public upon request.

The board shall administer and enforce the provisions of sections 196 to 200, inclusive, of said chapter 112.

Section 95. Beginning January 1, 1999 and every three years thereafter, the state auditor shall conduct a performance review in accordance with generally accepted government auditing standards in cooperation with the division, the board and appropriate consumer and governmental agencies to evaluate the performance of the board and the consumer protection provided by the statute and regulations, and shall submit a written report to the house and senate post audit and oversight committees, to the clerks of the house of representatives and the senate and to the chairs of the legislature's joint committee on health care detailing whether the services provided by the board are providing consumer protection and adequately meeting consumer needs.

SECTION 2. Chapter 112 of the General Laws is hereby amended by adding the following six sections:-

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Section 196. As used in this section and sections 197 to 200, inclusive, the following words shall have the following meanings, unless the context clearly requires otherwise:

"Apprentice", a person registered as an apprentice hearing instrument specialist, engaged in dispensing hearing aids under the supervision of a Massachusetts registered hearing instrument specialist or audiologist and studying to become a hearing instrument specialist.

"Assistive listening device and system", an amplification system specifically designed to improve the signal to noise ratio for the user that is used to reduce interference from the noise in the background and to enhance hearing level at a distance by picking up sound from as close to the source as possible and sending it directly to the ear of the user.

"Audiologist", a person licensed as an audiologist in the commonwealth.

"Board", the board of registration of hearing instrument specialists.

"Dispensing hearing instruments", (a) the selection and adaptation of suitable hearing aids, the making of ear molds or ear impressions, or both, and providing appropriate initial and follow-up counseling and training in hearing aid use through utilization of results of audiological or hearing tests and hearing aid evaluations, or both; and (b) all acts pertaining to the selling, renting, leasing, pricing, delivery, servicing, repairing and warranty of hearing aids.

"Hearing aid", a wearable aid or device, not including surgical implants, which is inserted directly into the ear or worn with an ear mold and air conduction receiver or bone oscillator attachment and any part, attachment or accessory but excluding batteries, cords and accessories thereto, designed for or offered for the purpose of aiding or compensating for hearing loss.

"Hearing instrument specialist", a person licensed as a hearing instrument specialist in the commonwealth.

"Register", "registered", "registrant" and "registration" shall be used interchangeably with the words "license", "licensed", "licensee" and "licensure".

"Sale" or "sell", to transfer title to a hearing aid or the right of possession of a hearing aid by sales contract, lease, bailment, loan or other means, excluding wholesale transactions of dealers and distributors and excluding transfer of a title to a used hearing aid for purposes of donation to a hearing aid bank for distribution.

Section 197. (a) Beginning July 1, 2000, no person shall identify, present or otherwise portray himself as a hearing instrument specialist or practice hearing aid dispensing in the commonwealth unless he is licensed by the board or is an audiologist in the commonwealth, whichever of the registrations is appropriate to the training of the individual; provided, however, that the provisions of this section shall not apply to: (i) persons who only repair or manufacture hearing aids or their accessories, or both; or (ii) persons who engage in the sale of assisted listening devices or systems but not in the dispensing of hearing aids.

(b) An audiologist engaged in the practice of hearing aid dispensing shall be exempt from registration as a hearing instrument specialist in the commonwealth and shall remain under the jurisdiction of the board of registration for speech-language pathology and audiology, pursuant to section 138 of chapter 112.

(c) A person who desires to be licensed as a hearing instrument specialist shall apply to the board in writing on an application form prescribed and furnished by the board. When the application is filed, an applicant for registration shall pay to the board a fee which shall be set by the secretary of administration and finance.

(d) The board shall register as a hearing instrument specialist each applicant who meets the requirements set forth in this section. The board shall issue to each person so registered a certificate of registration. Each such licensed hearing instrument specialist shall conspicuously display such certificate in his place of business. Original and duplicate certificates shall be issued by the board for a reasonable fee to a registrant operating or working in more than one location. Each such hearing instrument specialist shall be issued a license stating that the undersigned is a registered hearing instrument specialist. The registered hearing instrument specialist shall present his license to a customer when dispensing hearing instruments outside of his place of business.

(e) The term of the registration issued by the board shall be two years from the date of issuance. Notwithstanding the foregoing, each license originally issued to an individual shall be valid until the date of birth next occurring more than 24 months from the date of issuance. Each licensee shall pay to the board a fee which shall be set by the secretary of administration and finance. Renewal dates for other related registrations shall be set by the board. The renewal of a hearing instrument specialist license shall be contingent upon compliance with the continuing education requirements and standards of practice as determined by the board and defined in rules and regulations.

(f) To be eligible for registration by the board as a hearing instrument specialist, an applicant shall:

- (1) be at least 18 years of age;
- (2) have a high school diploma or its equivalent;
- (3) be of good moral character;

(4) have successfully completed a board approved 12 month apprenticeship, including completion of the apprentice training program and supervised work experience, and meet one of the following criteria:

(i) hold current certification as a hearing instrument specialist from a board approved, nationally recognized body certifying hearing instrument specialists; or

(ii) pass a written or electronic examination approved by the board and designed to test competencies and knowledge needed in hearing aid fitting and dispensing; and

- (5) pay the appropriate fee set by the secretary of administration and finance.

(g) An individual who has been in the practice of dispensing hearing aids within the commonwealth for more than three years full-time prior to July 1, 1999, shall be excluded from the requirement in clause (4) of subsection (f) provided that the applicant: (1) satisfies the board that he has dispensed hearing aids with accepted professional practice standards; (2) satisfies the board that he is of good moral character; and (3) pays the appropriate fee.

Section 197A. An individual who holds a license as a hearing instrument specialist or the equivalent thereof as determined by the board from a state which is deemed by the

board to have substantially equivalent or higher licensure requirements than those of the commonwealth may be licensed as a hearing instrument specialist without satisfying the requirements of clause (4) of subsection (f) of section 197. The word "state", as used in this section, shall include a state or territory of the United States, the District of Columbia, the commonwealth of Puerto Rico or a foreign country, state or province.

Section 198. (a) The board shall establish the requirements for registration of apprentice hearing instrument specialists and shall promulgate the rules and regulations consistent with law as may be necessary. A person registered as an apprentice by the board may engage in the dispensing of hearing aids without first having met the requirements under subsection (f) of section 197. The board shall promulgate rules and regulations to establish an apprentice training program which may include a board approved home study course. The board shall register as an apprentice and issue a certificate of registration to an applicant who has shown to the satisfaction of the board that the applicant: (1) is at least 18 years of age; (2) has a high school diploma or its equivalent; (3) is registered in a board approved training program; (4) has an identified supervisor who is a person registered in good standing in the commonwealth as a hearing instrument specialist or licensed as an audiologist and who has agreed to perform supervisory functions as described in subsection (c); and (5) has paid the board a fee which shall be set by the secretary of administration and finance. The certificate of registration for an apprentice shall include the name of the hearing instrument specialist who is supervising the apprentice and such supervisor shall execute an acknowledgment of responsibility for all acts of the apprentice in connection with hearing aid dispensing.

(b) Upon completion of the training program, the apprentice shall take the board approved examination. Following three failed examinations, an apprentice shall only be reexamined at the discretion of the board.

(c) An apprentice shall perform the functions of a hearing instrument specialist in accordance with board rules only under the supervision of a registered hearing instrument specialist or licensed audiologist. Such supervision shall be direct, on site and full-time, or the equivalent part time, for a minimum of 30 days after the initial hiring of the apprentice.

"Direct supervision", as used in this section, shall mean all of the following: (1) the supervisor shall be present within the office to which the apprentice is assigned 100 per cent of the time; (2) the supervisor shall be physically present in the same work area with the apprentice at a minimum of 50 per cent of the time in which the apprentice is providing services; (3) the supervisor shall approve the selection of a hearing aid by an apprentice; (4) the supervisor shall physically oversee all testing and taking of ear mold impressions by the apprentice and shall approve in writing the results of all hearing tests done by the apprentice; (5) the supervisor shall countersign all sales documents prepared and consummated by the apprentice.

Subsequent to the period of direct, on-site supervision, the supervisor shall review and approve in writing all hearing aid fittings by the apprentice, including physical inspection of ear mold impressions, ear mold plans and hearing aid recommendations and fittings. The supervisor shall give final approval to work performed by the apprentice and shall attempt

to contact the consumer who purchased the hearing aid by phone or through a follow-up appointment within one week to ensure satisfaction with the fitting.

The supervisor shall be responsible for providing supervision until either of the following occurs: (1) the apprentice obtains a certificate of registration as a hearing instrument specialist from the board; or (2) the supervisor or apprentice gives written notification to the board that he is terminating supervision and training.

An apprentice shall complete the minimum of 12 months under supervision as described in this subsection even if a board approved test has been successfully passed, prior to being granted a license as hearing instrument specialist.

(d) The board shall develop standards and regulations governing dispensing practices related to home visits. An apprentice engaging in hearing aid dispensing, after the initial period of direct supervision, shall be subject to all standards of dispensing and related penalties and fines pertaining to hearing instrument specialists.

(e) An apprentice registration shall expire 18 months from the date of its issuance except that, on recommendation of the board, the registration may be reissued for 18 months only.

Section 199. (a) In addition to its other rule making powers, the board may develop and adopt such rules of professional competence and conduct as may be instrumental in fixing and maintaining high standards of integrity and dignity in the hearing instrument specialist profession.

(b) The board may revoke or suspend a license granted to an individual as a hearing instrument specialist under section 197 and refuse to renew a license or may censure the holder of any such certificate of registration for any one or any combination of the following causes or may impose penalties as stated in section 200 if such individual:

(1) makes a misrepresentation for the purpose of obtaining a license or renewing a license, including falsification of the continuing education requirement;

(2) has violated any provision of the laws of the commonwealth relating to the practice of dispensing hearing instruments or a rule or regulation adopted thereunder;

(3) has made any material misstatement of fact or has omitted any material fact which is misleading in the application for registration or on a written or oral communication to the board concerning the issuance or retention of a registration;

(4) has been convicted of a crime which directly relates to the practice of dispensing hearing aids, including violations of any federal laws or regulations regarding hearing aids;

(5) has demonstrated gross incompetence in the fitting of hearing aids;

(6) engages in unethical conduct in dispensing hearing aids; provided, however, that unethical conduct shall include, but not be limited to:

(i) using, causing or promoting the use of language in any advertising manner, promotional literature, testimony, guarantee, warranty, label, brand, insignia or other representation, however disseminated or published, which is fraudulent, false, misleading or deceptive in form or content;

(ii) knowingly employing, directly or indirectly, a suspended or nonregistered hearing

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instrument specialist or apprentice to dispense hearing aids;

(iii) repeatedly failing, refusing to honor or refusing to perform as represented a representation, promise, agreement or warranty in connection with the promotion, sale, dispensing, repair or fitting of hearing aids;

(iv) advertising a particular model, type or kind of hearing aid or sale which purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model, type or kind than is advertised;

(v) falsifying hearing test or evaluation results;

(vi) falsely representing that the services or advice of a physician or audiologist shall be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing aids or using the words "doctor", "audiologist", "clinic", "clinical", "medical", "audiologic" or other term or title which may connote or imply the availability of professional services when such use is not accurate;

(vii) permitting another to use his registration;

(viii) engaging in conduct which constitutes a conflict of interest, including accepting or paying a client referral fee or other consideration or directing or limiting a client's choice of product other than as necessary based on the results of audiological or hearing tests or hearing aid evaluation;

(ix) dispensing hearing aids under a false, misleading or deceptive name; or

(x) failing within 30 days or within such time as may otherwise be set by law, to provide information in response to a written request from the board or the attorney general.

(7) has dispensed hearing aids while his ability to do so was impaired by alcohol or drugs;

(8) has violated a lawful order of the board previously entered in a disciplinary hearing.

Section 200. (a) The board may, by a majority vote of the entire board and upon determination made after a hearing pursuant to chapter 30A, find that a hearing instrument specialist or apprentice is liable for a violation of the provisions of sections 197 to 200, inclusive, and may impose the following fines and penalties: (1) require such holder to participate in an alcohol or drug rehabilitation program or undergo drug testing as a condition of reinstatement of such license or both; (2) suspend, revoke, cancel or place on probation such registration; (3) reprimand or censure the registrant; (4) require such holder to complete additional education or training or both as a condition of retention or future consideration or reinstatement of such registration; (5) require such holder to practice under appropriate supervision for a period of time to be determined by the board as a condition of retention or future consideration or reinstatement of such registration; (6) require financial restitution, where appropriate; and (7) assess an administrative penalty of not more than \$5,000 for each violation.

(b) Whoever, not being registered as a hearing instrument specialist, apprentice or as an audiologist licensed under the board of registration of speech-language pathology and

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audiology, holds himself out as a dispenser of hearing aids or as being able to dispense hearing aids or whoever impersonates another hearing instrument specialist or apprentice or violates any other provision of the board of registration of hearing instrument specialists or a rule or regulation made under the authority thereof, may be punished by a fine of not less than \$1,000 nor more than \$5,000 for each violation.

(c) A violation of sections 197 to 199, inclusive, shall also constitute a violation of chapter 93A.

Approved September 4, 1998.

Chapter 322. AN ACT RELATIVE TO REAL ESTATE TAX EXEMPTIONS FOR CERTAIN VETERANS WHO RESIDE IN THE CITY OF NEWTON.

Be it enacted, etc., as follows:

SECTION 1. Chapter 656 of the acts of 1985 is hereby amended by inserting after section 1 the following section:-

Section 1A. The real estate of surviving spouses of veterans who at the time of death were entitled to the exemption described in section 1, so long as such surviving spouse remains unmarried, shall be exempt from taxation under chapter 59 of the General Laws in the same manner and to the same extent that such real estate was exempt during the life of the qualifying veteran; provided, that such property is occupied as the domicile of the surviving spouse.

SECTION 2. This act shall take effect upon its passage.

Approved September 11, 1998.

Chapter 323. AN ACT RELATIVE TO A CERTAIN PAYMENT IN LIEU OF TAXES IN THE TOWN OF CHARLTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Charlton may establish and maintain two funds, one to be known as the Charlton Debt Service Reserve Fund and the second to be known as the Charlton Capital Expenditures Fund which shall be kept separate and apart from all other accounts of the town. The town treasurer shall be the custodian of each fund and may deposit the proceeds or invest the same in accordance with the provisions of section 54 or 55 of chapter 44 of the General Laws. Any interest earned thereon shall be credited to, and become part of, the funds.

SECTION 2. The town of Charlton may appropriate monies from the Charlton Debt

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Service Reserve Fund at any special or annual town meeting to pay principal on any long term debt of said town, including water and sewer fund debt maturing, callable or due in the ensuing fiscal year. Said town of Charlton may appropriate monies from the Charlton Capital Expenditures Fund at any special or annual town meeting to pay for any capital expenditures of said town including water and sewer fund capital expenditures.

SECTION 3. The town of Charlton may appropriate money in any year into the Charlton Debt Service Reserve Fund and the Charlton Capital Expenditures Fund from any available source. The amounts to be appropriated shall be submitted by the board of selectmen to the town meeting.

SECTION 4. All amounts paid annually by Millennium Power Partners, L.P. or its successors or assigns in lieu of taxes as authorized by chapter 462 of the acts of 1996 shall be allocated as follows:-

The members of the board of selectmen, board of assessors and the town treasurer shall, annually, acting jointly, by a majority vote, specify the amounts to be deposited in the following funds: (a) no more than 40 per cent in the Sewer Enterprise Fund, (b) no more than 20 per cent in the Water Enterprise Fund if and when said town establishes such fund in accordance with the provisions of section 53F½ of chapter 44 of the General Laws, (c) no more than 20 per cent in the Debt Service Reserve Fund, (d) no more than 10 per cent in the town's Stabilization Fund; provided, however, that such deposit shall not cause the amount of the fund to exceed the limit established under the provisions of section 5B of chapter 40 of the General Laws, and (e) any remaining funds shall be deposited in the Charlton Capital Expenditures Fund.

Approved September 11, 1998.

**Chapter 324. AN ACT AUTHORIZING AND DIRECTING THE
MASSACHUSETTS HIGHWAY DEPARTMENT TO ERECT A
MEMORIAL MARKER IN THE TOWN OF BOURNE.**

Be it enacted, etc., as follows:

SECTION 1. The Massachusetts highway department shall erect a memorial marker in memory of Brent Charles Donahue and Carrie Lynne Stephens who were killed in a traffic accident on the Bourne bridge September 16, 1988. Said marker shall be erected on the south side of state highway Route 25, in the town of Bourne, in compliance with the standards of said department.

SECTION 2. This act shall take effect upon its passage.

Approved September 11, 1998.

Chapter 325. AN ACT REGULATING THE PRODUCTION OF FORTIFIED WINES.

Be it enacted, etc., as follows:

Section 19B of chapter 138 of the General Laws is hereby amended by striking out subsection (f), as appearing in the 1996 Official Edition, and inserting in place thereof the following subsection:-

(f) A winegrower may import the unfermented juice of fruits, flowers, herbs or vegetables and may, using wine produced by the winegrower, distill wine on the premises of the winegrower for the sole purpose of fortifying other wines produced by the winegrower; provided, however, that a winegrower may not import wine or alcohol into the commonwealth.

Approved September 11, 1998.

Chapter 326. AN ACT RELATIVE TO THE POLICE DEPARTMENT OF THE TOWN OF SPENCER.

Be it enacted, etc., as follows:

SECTION 1. Chapter 36 of the acts of 1975 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. Notwithstanding the provisions of any general or special law to the contrary, appointments to the police department of the town of Spencer shall not be subject to chapter 31 of the General Laws but shall otherwise be governed by the General Laws.

SECTION 2. This act shall take effect upon its passage.

Approved September 11, 1998.

Chapter 327. AN ACT PROTECTING CONSUMERS FROM THE UNAUTHORIZED SWITCHING OF THEIR LOCAL AND LONG DISTANCE TELECOMMUNICATIONS SERVICE PROVIDERS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 93 of the General Laws is hereby amended by adding the following six sections:-

Section 108. As used in sections 108 to 113, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Customer", a person who resides in the commonwealth and subscribes to local or long distance telecommunications services.

"Department", the department of telecommunications and energy.

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"Interexchange carrier" or "IXC", any person engaged in the provision of long distance telephone service.

"Letter of agency" or "LOA", a document meeting the form and content requirements of section 109 and 47 CFR 64.1150.

"Local exchange carrier" or "LEC", any person engaged in the provision of telephone exchange service, not including a person engaged in the provision of commercial mobile service under section 332(e) of the Federal Communications Act of 1934, except to the extent that the department determines such service should be included in the definition of such term.

"Third party verification" or "TPV", service provider, an entity registered with the department pursuant to section 12E of chapter 159 that provides customer authorization confirmation services under section 110.

Section 109. (a) For purposes of section 110, a change in a customer's primary IXC or LEC shall be considered to have been authorized only if the IXC or LEC that initiated that change provides confirmation that the customer did authorize such change either through a signed LOA or oral confirmation of authorization obtained by a company registered with the department to provide TPV services in the commonwealth.

(b) (1) A letter of agency shall be a separate document whose sole purpose is to authorize an IXC or LEC to initiate a primary IXC or LEC change.

(2) A letter of agency shall not be combined with inducements of any kind on the same document.

(3) At a minimum, a letter of agency shall be printed in 12 point type and shall contain clear and unambiguous language that confirms:-

(i) the customer's billing name and address, and each telephone number for which a customer requests to change its primary IXC or LEC;

(ii) the customer's decision to change its primary IXC or LEC to the new IXC or LEC;

(iii) the customer understands that only one IXC may be designated as the customer's primary long distance provider for any one telephone number;

(iv) the customer understands that only one LEC may be designated as the customer's primary local telephone exchange service provider; and

(v) the customer understands that a charge to the customer may result from changing the customer's primary IXC or LEC.

(4) Letters of agency shall not suggest or require that a customer take any action to retain current IXC or LEC.

(c) (1) Third party verification shall be accomplished by having a person talk directly to the customer to obtain oral confirmation that the customer did authorize a change in a primary IXC or LEC service for a particular telephone line identified.

(2) A person during the third party verification call shall inform the customer called that the sole purpose of the call is to verify that the customer authorized a change in the primary IXC or LEC service for the particular line identified and that to qualify for verification the customer must be recorded. If the customer agrees to the recording of the call,

the balance of the call shall be recorded, and the following shall be confirmed:

- (i) the identity of the person spoken to as well as appropriate verification data;
- (ii) the authority of the person spoken to in order to authorize a change in the primary IXC or LEC for a particular line identified;
- (iii) that the authorization has been given to change the primary IXC or LEC for a particular telephone line identified;
- (iv) the identity of the IXC or LEC which the customer has authorized to be the new primary IXC or LEC service provider.

(3) Recordings made by persons providing TPV services shall be retained for 12 months and copies shall be made available at no charge upon request to the department, the attorney general, or the customer. No information obtained from the customer as part of any third party verification shall be used for any marketing purpose.

(4) The department shall promulgate rules and regulations setting forth such further requirements for the conduct of third party verification calls and recordings to protect against incorrect, inaccurate or falsified verification.

(5) The department may waive the provisions of this section requiring the recording of third party verification by an entity that can demonstrate to the satisfaction of said department that it has an adequate verification system according to standards that ensure a level of protection for consumers equivalent to that of recording.

Section 110. (a) Either a customer, IXC, or LEC may initiate a complaint that a customer's IXC or LEC has been switched without the customer's authorization.

(b) The customer, IXC or LEC shall make the complaint within 90 days after the statement date of the notice indicating that the customer's IXC or LEC has been switched.

(c) The customer, IXC or LEC shall make the complaint with the department.

(d) The department shall request from the customer: a copy of the customer's telephone bill, the name of the original IXC or the original LEC, the name of the new IXC or new LEC, and any other information the department deems relevant, within ten business days of receiving the complaint.

(e) The customer shall return the requested information to the department within 15 business days of the department's notifying the customer.

(f) Within ten business days of receiving the requested information from the customer, the department shall send to: (i) the customer, a letter acknowledging receipt of the information; (ii) the original IXC or original LEC, a letter informing the original IXC or original LEC of the pending complaint and requesting other information relevant to the IXC or LEC switch; (iii) the new IXC or LEC, a letter informing it of the pending complaint, requesting the customer's LOA or TPV, and requesting other information the department deems relevant; and (iv) the LEC, a letter requesting the customer's telephone bills for the time period since the alleged unauthorized IXC or LEC switch.

(g) The original IXC or original LEC, and the new IXC or new LEC, shall return the requested information to the department within 15 business days of the department's request.

(h) Within ten business days after receiving a copy of the customer's LOA or TPV

from the new IXC or new LEC, the department shall send a copy of the LOA or TPV to the customer and notice to the customer that the customer shall provide written notice to the department within 15 business days after receipt whether they intend to challenge the material provided by the new IXC or LEC.

(i) Within 20 business days after receiving the customer's written response challenging the LOA or TPV, the department shall hold a hearing to determine, based on its review of the LOA or TPV recording and evidence presented by the customer, whether the customer did authorize the change to the new IXC or LEC. Within ten business days after the hearing the department shall render its decision.

(j) Within 20 business days after not receiving a written response from the customer concerning the LOA or TPV, the department shall determine, based on its review of the LOA or TPV recording and any other information relevant to the IXC or LEC switch, whether the customer did authorize the change to the new IXC or LEC. Within ten business days after the hearing the department shall render its decision.

(k) In addition to the procedures prescribed in this section, the department may promulgate rules and regulations to establish an alternative informal procedure for the resolution of such complaints at the election of the customer.

Section 111. (a) An LEC doing business in the commonwealth shall prepare an information booklet describing customer's rights under the provisions of sections 108 to 113, inclusive. The LEC shall mail such booklet to each of its customers, including new customers. The information booklet shall be approved by the department.

(b) After switching a customer's IXC or LEC, said LEC shall include in the customer's next monthly statement a notice that shall include the following: (i) the customer's telephone number for which the LEC switched the IXC or LEC; (ii) the name, address, and telephone number of the original IXC or original LEC.

Section 112. (a) If the department determines that a new IXC or new LEC does not have the required LOA or TPV, the department shall calculate and require the new IXC or new LEC to refund the following: (i) to the customer, the difference between what the customer would have paid in IXC or LEC charges at the original IXC or original LEC and actual charges paid to the new IXC or new LEC, if the new IXC's or new LEC's charges are greater than what would have been charged to the customer by the original IXC or original LEC; (ii) to the customer, any reasonable expense the customer incurred, in switching to the new IXC or LEC, or switching back to the original IXC or original LEC; and (iii) the original IXC or LEC, any lost revenue, which shall consist of the amount of the money the original IXC or LEC would have received for the service used by the customer during the time the customer received IXC or LEC services from the new IXC or new LEC if the customer's IXC or LEC had not been switched. This amount shall gross, irrespective of expenses, what the original IXC or original LEC would likely have incurred providing the IXC or LEC services to the customer. If the new IXC's or new LEC's charges to the customer are lower than what would have been charged to the customer by the original IXC or original LEC, the new IXC or new LEC shall pay the original IXC or original LEC the amount equal to the charges received

from the customer. Once the new IXC or new LEC refunds the lost revenues to the original IXC or original LEC, the original IXC or original LEC shall refund, credit or adjust any incentives that were lost to the customer by the unauthorized change in the customer's IXC or LEC, including, but not limited to, frequent flyer miles and charitable contributions.

(b) An IXC or LEC determined by the department to have switched any customer's IXC or LEC without proper authorization more than once in a 12 month period, shall be subject to a civil penalty not to exceed \$1,000 for the first offense and not less than \$2,000 nor more than \$3,000 for any subsequent offense. In determining the amount of the civil penalty, the department shall consider the nature, circumstances and gravity of the violation, the degree of the respondent's culpability, and the respondent's history of prior offenses.

(c) An IXC or LEC determined by the department to have switched any customer's IXC or LEC without the proper authorization more than 20 times in a 12 month period may, after a full hearing and determination by the department that such IXC or LEC intentionally, maliciously or fraudulently switched the service of more than 20 customers in a 12 month period, be prohibited from selling telecommunications services in the commonwealth for a period of up to one year. In determining the length of suspension, the department shall consider the nature, gravity of the violation, the degree of the respondent's culpability, and the respondent's history of prior offenses.

Section 113. (a) The department shall track instances in which an IXC, LEC, or TPV company switched a customer's IXC or LEC without the customer's valid LOA or TPV.

(b) The department shall prepare an annual report of the impact of the provision of sections 108 to 113, inclusive, and submit it to the joint committee on government relations and the attorney general, within 30 days of its completion.

(c) The department shall keep monthly records of each unauthorized IXC or LEC change by company and produce an annual report of each violation by company and submit it to the joint committee on government regulations and the attorney general.

(d) The department shall keep a record of any TPV companies and any other agent affiliated with an IXC or an LEC that has engaged in the unauthorized switching of a customer's IXC or LEC.

(e) The department shall promulgate rules and regulations for the implementation of this section.

SECTION 2. Chapter 159 of the General Laws is hereby amended by inserting after section 12D the following section:-

Section 12E. (a) (1) A company that provides third party verification services pursuant to section 109 of chapter 93 shall apply for registration with the department.

(2) The department shall allow a company to register as a third party verification service provider only if it:

(i) operates in a location physically separate from the IXC, LEC or telemarketing representative who has obtained the customer's oral authorization to submit a change order for an IXC or LEC;

(ii) is not directly or indirectly managed, controlled, directed, or owned wholly or

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partially, by an IXC or LEC; and

(iii) does not receive commissions or compensation based upon the number of customer authorizations confirmed or sales confirmed.

(3) A company seeking to register shall file a registration application with the department.

(b) The department shall promulgate rules and regulations specifying the form and content of such application necessary to demonstrate satisfaction of the requirements of clause (ii) of subsection (a).

Approved September 11, 1998.

Chapter 328. AN ACT RELATIVE TO THE ELECTION COMMISSION OR BOARD OF REGISTRARS OF VOTERS IN THE TOWN OF SWAMPSCOTT.

Be it enacted, etc., as follows:

SECTION 1. The second paragraph of section 1 of chapter two of the charter of the town of Swampscott which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out the second and third sentences and inserting in place thereof the following two sentences:- Any revision of such precincts shall take effect upon the date of the filing of the report thereof with the election commission or board of registrars of voters. Whenever the precincts are revised, the election commission or board of registrars of voters shall give written notice thereof to the state secretary.

SECTION 2. This act shall be submitted to the voters of said town at the next annual or special town election in the form of the following question which shall be placed upon the official ballot to be used at said election:-

"Shall an act passed by the general court in the year 1998 entitled 'An Act relative to the election commission or board of registrars of voters in the town of Swampscott', be accepted?" If a majority of the votes cast in answer to said question is in the affirmative, then this act shall thereupon take full effect, but not otherwise.

Approved September 18, 1998.

Chapter 329. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE DARTMOUTH FIRE DISTRICT #2.

Be it enacted, etc., as follows:

The by-laws of Dartmouth Fire District #2 are hereby amended by adding the following article:-

Article VIII

RECALL ELECTIONS

Section 1. A holder of an elective office in Dartmouth Fire District #2 may be recalled therefrom by the registered voters of the district who reside in the territory comprising said district as hereinafter provided.

Section 2. Any thirty registered voters of Dartmouth Fire District #2 may initiate a recall petition by filing with the district clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for such recall. Said district clerk shall thereupon deliver to the voters who filed such affidavit a sufficient number of copies of petition blanks demanding such recall, printed forms of which said clerk shall keep on hand. The blanks shall be issued by said district clerk with his signature and official seal attached thereto, they shall be dated and addressed to the prudential committee of said district and shall contain the names of all persons to whom issued, the number of blanks so issued, the name of the person sought to be recalled, the grounds for such recall as stated in the affidavit, and they shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of the district clerk. Said recall petition shall be returned and filed with said clerk within twenty days after filing of the affidavit and shall have been signed by at least one hundred and fifty registered voters of said district. To every signature shall be added the place of residence of the signer, giving the street and number. The district clerk shall, within twenty-four hours of receipt thereof, submit the signed petition to the registrars of voters for the town of Dartmouth, and the registrars shall, within five business days certify thereon the number of signatures which are the names of registered voters in said district.

Section 3. If the petition shall be found and certified by the district clerk to be sufficient, said district clerk shall submit the same with his certificate to the prudential committee within ten business days and said prudential committee shall, within ten business days, give written notice of the receipt of said certificate to the officer sought to be recalled and shall, if such officer does not resign within five days thereafter, thereupon order an election to be held on a date fixed by said committee, not less than sixty-five days nor more than ninety days after the date of the certificate of the district clerk that a sufficient petition has been filed; provided, however, that if any other district election is to occur within one hundred days after the date of such certificate, said prudential committee may, in its discretion, postpone the holding of such recall election to the date of such other election. No person shall be subject to recall if his term of office expires within ninety days of the date of such certificate. If a vacancy occurs in said office after a recall election has been so ordered, the election shall nevertheless proceed as provided in this section.

Section 4. An officer sought to be recalled may be a candidate to succeed himself and, unless such officer requests otherwise in writing, the district clerk shall place his name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election, and the conduct of the same shall be in accordance with the provisions of law relating to elections, unless otherwise provided herein.

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Section 5. The incumbent shall continue to perform the duties of his office until the recall election. If not recalled, such incumbent shall continue in the office for the remainder of his unexpired term, subject to recall as before, except as provided in this act. If such officer is not re-elected in the recall election, he shall be deemed removed upon the qualification of his successor who shall hold office during the remainder of the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

Section 6. Ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall of (name of officer)

Against the recall of (name of officer).

Immediately at the right of each proposition, there shall be a square in which the voter, by making a cross (X) or by indicating his intentions by suitable mechanical means, may vote for either of said propositions. Under the propositions shall appear the word "Candidates", the directions to voters required by section forty-two of chapter fifty-four of the General Laws, and the names of candidates nominated as hereinbefore provided. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected; provided, however, that at least one hundred of those entitled to vote in the election shall have voted. If a majority of votes on the question is in the negative, the ballot for the candidates need not be counted.

Section 7. No recall petition shall be filed against an officer within six months after he takes office nor, in the case of an officer subject to a recall election and not recalled thereby, until at least six months after the election at which his recall was submitted to the voters. No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against him shall be appointed to a district office within two years after such removal or resignation.

Approved September 18, 1998.

Chapter 330. AN ACT RELATIVE TO THE FILLING OF VACANCIES IN TOWN MEETING MEMBERSHIP IN THE TOWN OF SWAMPSCOTT.

Be it enacted, etc., as follows:

SECTION 1. Chapter two of the charter of the town of Swampscott which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 5 and inserting in place thereof the following section:-

Section 5. A town meeting member may resign by filing a written resignation with the town clerk, and such resignation shall take effect on the date of such filing. A town meeting member who removes from the town shall cease to be a town meeting member and

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a town meeting member who removes to another precinct may serve only until the next annual town meeting.

Any vacancy in the town meeting membership from any precinct shall be filled by the election commissioners or board of registrars of voters for the unexpired term of office as follows:

The person who, although not elected, in the most recent election received the largest amount of votes in the precinct shall be offered town meeting membership. If there is more than one next highest vote getting person, the membership shall be awarded to the winner of a lottery from among such persons. If the person who is selected declines to accept such membership, it shall be offered to the next highest vote getting person or another lottery shall be conducted until the vacancy is filled. If a vacancy exists and there is no list of next highest vote getting persons, the vacancy shall be filled by the precinct caucus, by ballot, by a majority vote of those present and voting, for the unexpired term. The person selected to fill the vacancy shall be subject to all rights, responsibilities and privileges of town meeting members as if originally elected, and such person shall be eligible to serve for the remainder of the unexpired term.

SECTION 2. This act shall be submitted to the voters of the town of Swampscott at the next annual or special town election in the form of the following question which shall be placed upon the official ballot to be used at said election:

"Shall an act passed by the general court in the year 1998, entitled 'An Act relative to the filling of vacancies in the town meeting membership in the town of Swampscott', be accepted?" If a majority of the votes cast in answer to said question is in the affirmative, then this act shall thereupon take full effect, but not otherwise.

Approved September 18, 1998.

Chapter 331. AN ACT RELATIVE TO THE HOLYOKE ARMORY.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the commissioner of the division of capital asset management and maintenance is hereby authorized, on behalf of the commonwealth, with the approval of the adjutant general of the military division, to lease the armory in the city of Holyoke to said city, and said city is hereby authorized to lease said armory from the commonwealth. Said lease shall require that said armory be used for municipal purposes and shall be for a term not to exceed 30 years.

Subject to the provisions of chapter 30 and chapter 149 of the General Laws, the city of Holyoke is hereby authorized to renovate and make improvements to said armory pursuant to said lease and, with the approval of the commissioner, sublease areas of said armory so long as such sublease is for a public purpose and is subject to and consistent with the terms of said lease.

Approved September 18, 1998.

Chapter 332. AN ACT RELATIVE TO EXCAVATION.

Be it enacted, etc., as follows:

Chapter 82 of the General Laws is hereby amended by striking out section 40, as appearing in the 1996 Official Edition, and inserting in place thereof the following six sections:-

Section 40. The following words, as used in this section and sections 40A to 40E, inclusive, shall have the following meanings:-

"Company", natural gas pipeline company, petroleum or petroleum products pipeline company, public utility company, cable television company, and municipal utility company or department that supply gas, electricity, telephone, communication or cable television services or private water companies within the city or town where such excavation is to be made.

"Description of excavation location", such description shall include the name of the city or town, street, way, or route number where appropriate, the name of the streets at the nearest intersection to the excavation, the number of the buildings closest to the excavation or any other description, including landmarks, utility pole numbers or other information which will accurately define the location of the excavation.

"Emergency", a condition in which the safety of the public is in imminent danger, such as a threat to life or health or where immediate correction is required to maintain or restore essential public utility service.

"Excavation", an operation for the purpose of movement or removal of earth, rock or the materials in the ground including, but not limited to, digging, blasting, augering, backfilling, test boring, drilling, pile driving, grading, plowing in, hammering, pulling in, jacking in, trenching, tunneling and demolition of structures, excluding excavation by tools manipulated only by human power for gardening purposes and use of blasting for quarrying purposes.

"Excavator", any entity including, but not limited to, a person, partnership, joint venture, trust, corporation, association, public utility, company or state or local government body which performs excavation operations.

"Premark", to delineate the general scope of the excavation or boring on the paved surface of the ground using white paint, or stakes or other suitable white markings on nonpaved surfaces. No premarking shall be acceptable if such marks can reasonably interfere with traffic or pedestrian control or are misleading to the general public. Premarking shall not be required of any continuous excavation that is over 500 feet in length.

"Safety zone", a zone designated on the surface by the use of standard color-coded markings which contains the width of the facilities plus not more than 18 inches on each side.

"Standard color-coded markings", red - electric power lines, cables, conduit or light cables; yellow - gas, oil, street petroleum, or other gaseous materials; orange - communications cables or conduit, alarm or signal lines; blue - water, irrigation and slurry lines; green - sewer and drain lines; white - premark of proposed excavation.

"System", the underground plant damage prevention system as defined in section 76D of chapter 164.

Section 40A. No excavator installing a new facility or an addition to an existing facility or the relay or repair of an existing facility shall, except in an emergency, make an excavation, in any public or private way, any company right-of-way or easement or any public or privately owned land or way, unless at least 72 hours, exclusive of Saturdays, Sundays and legal holidays but not more than 30 days before the proposed excavation is to be made, such excavator has premarked not more than 500 feet of the proposed excavation and given an initial notice to the system. Such initial notice shall set forth a description of the excavation location in the manner as herein defined. In addition, such initial notice shall indicate whether any such excavation will involve blasting and, if so, the date and the location at which such blasting is to occur.

The notice requirements shall be waived in an emergency as defined herein; provided, however, that before such excavation begins or during a life-threatening emergency, notification shall be given to the system and the initial point of boring or excavation shall be premarked. The excavator shall ensure that the underground facilities of the utilities in the area of such excavation shall not be damaged or jeopardized.

In no event shall any excavation by blasting take place unless notice thereof, either in the initial notice or a subsequent notice accurately specifying the date and location of such blasting shall have been given and received at least 72 hours in advance, except in the case of an unanticipated obstruction requiring blasting when such notice shall be not less than four hours prior to such blasting. If any such notice cannot be given as aforesaid because of an emergency requiring blasting, it shall be given as soon as may be practicable but before any explosives are discharged.

Section 40B. Within 72 hours, exclusive of Saturdays, Sundays and legal holidays, from the time the initial notice is received by the system or at such time as the company and the excavator agree, such company shall respond to the initial notice or subsequent notice by designating the location of the underground facilities within 15 feet in any direction of the premarking so that the existing facilities are to be found within a safety zone. Such safety zone shall be so designated by the use of standard color-coded markings. The providing of such designation by the company shall constitute prima facie evidence of an exercise of reasonable precaution by the company as required by this section; provided, however, that in the event that the excavator has given notice as aforesaid at a location at which because of the length of excavation the company cannot reasonably designate the entire location of its facilities within such 72 hour period, then such excavator shall identify for the company that portion of the excavation which is to be first made and the company shall designate the location of its facilities in such portion within 72 hours and shall designate the location of its facilities in the remaining portion of the location within a reasonable time thereafter. When an emergency notification has been given to the system, the company shall make every attempt to designate its facilities as promptly as possible.

Section 40C. After a company has designated the location of its facilities at the lo-

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cation in accordance with section 40B, the excavator shall be responsible for maintaining the designation markings at such locations, unless such excavator requests remarking at the location due to the obliteration, destruction or other removal of such markings. The company shall then remark such location within 24 hours following receipt of such request.

When excavating in close proximity to the underground facilities of any company when such facilities are to be exposed, non-mechanical means shall be employed, as necessary, to avoid damage in locating such facility and any further excavation shall be performed employing reasonable precautions to avoid damage to any underground facilities including, but not limited to, any substantial weakening of structural or lateral support of such facilities, penetration or destruction of any pipe, main, wire or conduit or the protective coating thereof, or damage to any pipe, main, wire or conduit.

If any damage to such pipe, main, wire or conduit or its protective coating occurs, the company shall be notified immediately by the excavator responsible for causing such damage.

The making of an excavation without providing the notice required by section 40A with respect to any proposed excavation which results in any damage to a pipe, main, wire or conduit, or its protective coating, shall be prima facie evidence in any legal or administrative proceeding that such damage was caused by the negligence of such person.

Section 40D. Nothing contained herein shall be construed to affect or impair local ordinances or by-laws requiring permits to be obtained before excavation in a public way; provided, however, that notwithstanding any contrary provision of local ordinances or by-laws, no permit to excavate in a public way shall be approved or issued by the officer or board having charge of any such way, except in an emergency as herein defined, until such time as proof of such notices to the system have been filed with such officer or board by the applicant for the permit as required by this section and notice of issuance of a permit to excavate have been served by such officer or board upon the appropriate water and sewer department.

Section 40E. Any person or company found by the department of telecommunications and energy, after a hearing, to have violated any provision of sections 40A to 40E, inclusive, shall be fined \$500 for the first offense and not less than \$1,000 nor more than \$5,000 for any subsequent offense within 12 consecutive months as set forth by the rules of said department; provided, however, that nothing herein shall be construed to require forfeiture of any penal sum by a state or local government body for violation of section 40A or 40C; and provided, further, that nothing herein shall be construed to require the forfeiture of any penal sum by a residential property owner for the failure to premark for an excavation on such person's residential property.

Approved September 18, 1998.

**Chapter 333. AN ACT RELATIVE TO THE BOARD OF SELECTMEN-TOWN
MANAGER FORM OF GOVERNMENT IN THE TOWN OF
FRAMINGHAM.**

Be it enacted, etc., as follows:

SECTION 1. Section 12 of chapter 27 of the acts of 1996 is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The department of public works, the department of health and the parks and recreation department shall continue to operate under the board of public works, the board of health, and the parks and recreation commission, respectively, until a town manager has been appointed at which time said departments shall operate under the supervision of the town manager.

SECTION 2. Section 1 shall take effect as of February 23, 1996.

SECTION 3. This act shall take effect upon its passage.

Approved September 24, 1998.

**Chapter 334. AN ACT RELATIVE TO THE INVESTMENT OF TRUST FUNDS BY
THE CITY OF WORCESTER.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section 54 of chapter 44 of the General Laws or any other general or special law to the contrary, the city of Worcester, acting through its treasurer, may invest trust funds, including cemetery perpetual care funds, unless otherwise provided or directed by the donor thereof, in any class of securities which are eligible for inclusion in the list of legal investments for savings banks pursuant to paragraph 1 of section 15B of chapter 167 of the General Laws, whether or not such security has been included by the commissioner of banks on such list. All provisions of said section 54 of said chapter 44 regarding the percentage of investment in the securities of any one corporation shall apply to investments made under the provisions of this act. Nothing in this act shall be deemed to prohibit said treasurer from investing such trust funds in any investment otherwise described in said section 54.

Approved September 25, 1998.

**Chapter 335. AN ACT AUTHORIZING THE LEASING AND CONSTRUCTION OF
IMPROVEMENTS TO THE EAST JUNIOR HIGH SCHOOL BUILD-
ING IN THE CITY KNOWN AS THE TOWN OF WATERTOWN.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the

contrary, the city known as the town of Watertown, acting by and through its school committee and town manager jointly, may enter into leases of all or a portion of the building formerly known as the East Junior High School, contingent on town council authorization; provided, however, that any such lease shall be awarded pursuant to section 16 of chapter 30B of the General Laws and shall be made on such terms and conditions as shall be determined by the school committee and town manager jointly to be in the best interests of the town. In the event that a portion of said East Junior High School shall be in actual use as a school at the time of the effective date of any lease awarded pursuant to this act, such lease shall be approved by the commissioner of education as required pursuant to section 3 of chapter 40 of the General Laws.

SECTION 2. A lessee selected pursuant to this act shall be solely responsible for the cost of any and all reconstruction, alteration, remodeling, repair and maintenance of the East Junior High School, collectively referred to herein as improvements, including the cost of any design services relative thereto. The design and construction of any such improvements shall be subject to the prior approval of the city known as the town of Watertown, and shall be exempt from the provisions of the General Laws relating to the construction of improvements to public buildings, including chapter 30B, sections 38A½ to 38 O, inclusive, of chapter 7, sections 44A to 44H, inclusive, of chapter 149 and section 39M of chapter 30 of the General Laws. The provisions of sections 26 to 27H, inclusive, of said chapter 149 shall apply to any contracts entered into by the lessee for the construction of such improvements.

SECTION 3. Prior to the construction of any improvements pursuant to this act, a lessee shall provide the city known as the town of Watertown with a performance and labor and materials payment bond in the amount of 100 per cent of the value of the improvements to be constructed and with certificates of insurance indicating the existence of such coverages as the town manager shall determine to be in the best interests of said town.

SECTION 4. All improvements constructed pursuant to this act shall become and shall remain the property of the city known as the town of Watertown upon the termination of any lease awarded pursuant to this act.

SECTION 5. Notwithstanding the provisions of any general or special law to the contrary, the monies received from any lease of said East Junior High School shall be deposited in the general fund and shall thereafter be expended pursuant to appropriation by the town council.

SECTION 6. This act shall take effect upon its passage.

Approved September 25, 1998.

Chapter 336. AN ACT RELATIVE TO REPORTS OF ABUSE OF PATIENTS RECEIVING HOME HEALTH CARE.

Be it enacted, etc., as follows:

SECTION 1. Section 172C of chapter 6 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 4 and 5, the words "between the ages of eighteen and fifty-nine, inclusive,".

SECTION 2. Said section 172C of said chapter 6, as so appearing, is hereby further amended by adding the following paragraph:-

A violation of this section shall constitute a violation of section 2 of chapter 93A.

SECTION 3. Said chapter 6 is hereby further amended by inserting after section 172D, inserted by section 1 of chapter 64 of the acts of 1998, the following section:-

Section 172E. Notwithstanding any provision of section 172, criminal offender record information shall be available to any long term care facility, as defined in section 72W of chapter 111, for the purpose of obtaining criminal offender record information on an applicant under final consideration for, or an individual currently employed in, a position that involves the provision of direct personal care or treatment to residents of such facility. Any such long term care facility shall obtain all available criminal offender record information from the criminal history systems board on an applicant under final consideration for a position that involves the provision of direct personal care or treatment to residents. A long term care facility which obtains information under this section shall prohibit the dissemination of such information for any purpose other than to further the protection of the elderly or the disabled, including, but not limited to, dissemination among and between long term care facilities.

A long term care facility may employ an individual for a position that involves the provision of direct personal care or treatment to residents of such facility on a conditional basis prior to receiving the results of such individual's criminal offender record check from the criminal history systems board. No long term care facility shall be liable for civil damages to any individual so conditionally employed and subsequently discharged by reason of information received as a result of a criminal offender record information check completed pursuant to this section.

The criminal history systems board may waive or reduce the fee assessable pursuant to section 172A for criminal offender record information made available pursuant to this section.

Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance shall, subject to appropriation, reimburse long term care facilities for the portion of the costs associated with obtaining criminal offender record information on employees pursuant to this section.

SECTION 4. Chapter 111 of the General Laws is hereby amended by striking out sections 72F to 72L, inclusive, as appearing in the 1996 Official Edition, and inserting in place thereof the following eight sections:-

Section 72F. As used in sections 72F to 72L, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Abuse", the willful infliction of injury, unreasonable confinement, intimidation, including verbal or mental abuse, or punishment with resulting physical harm, pain or mental

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anguish or assault and battery; provided, however, that verbal or mental abuse shall require a knowing and willful act directed at a specific person.

"Facility", an entity required to be licensed under section 71.

"Home health aide", an employee of a home health agency or a hospice program who provides health services to individuals in a home setting.

"Home health agency", an entity, however organized, whether conducted for profit or not for profit, which is advertised, announced, established or maintained for the purpose of providing health and homemaker services to individuals in a home setting.

"Homemaker", an employee hired by a home health agency or a hospice program to perform homemaking tasks in an individual's home, including the essential nutritional and environmental needs of the individual, such as, meal preparation, cleaning and laundry.

"Hospice program", an entity required to be licensed under section 57D or a hospice service of a hospital licensed under section 51.

"Misappropriation of patient or resident property", the deliberate misplacement, exploitation or wrongful, temporary or permanent use of a patient's or resident's belongings or money without such patient's or resident's consent.

"Mistreatment", the use of medications or treatments, isolation, or physical or chemical restraints which harm or are likely to harm the patient or resident.

"Neglect", failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness.

"Nurse aide", an individual who is not a licensed health professional but is employed by a facility which provides nursing or nursing-related services to residents.

"Patient", an individual who receives health, homemaker or hospice services at home from an individual employed by a home health agency or a hospice program.

"Religious accommodation", no person shall be considered to be abused or neglected for the reason that such person, in accordance with his express or implied consent, is being furnished or relies upon treatment by spiritual means through prayer alone in accordance with a religious method of healing in lieu of medical treatment.

"Resident", an individual who resides in a long term care facility licensed under section 71.

Section 72G. A physician, medical intern or resident, physician assistant, registered nurse, licensed practical nurse, nurse aide, orderly, home health aide, hospice worker, homemaker, administrator, responsible person, medical examiner, dentist, optometrist, optician, chiropractor, podiatrist, coroner, police officer, speech pathologist, audiologist, social worker, pharmacist, physical or occupational therapist or health officer, paid for caring for a patient or resident, who has reasonable cause to believe that a patient or resident has been abused, mistreated or neglected or had property misappropriated, shall immediately report such abuse, mistreatment or neglect or misappropriation of patient or resident property to the department by electronically transmitted report, facsimile or oral communication and, if by oral communication, by making a written report within 48 hours after such oral communication. Any such person required to make such oral and written reports who fails to do so shall

be punished by a fine of not more than \$1,000.

In addition to those persons required to report pursuant to this section, any other person may make such a report if such person has reasonable cause to believe that a patient or resident has been abused, mistreated or neglected or had property misappropriated. Any person making an oral or written report pursuant to this section shall not be liable in any civil or criminal action by reason of such report if such report was made in good faith. In a civil action commenced against a person making such report, if the court finds in favor of the defendant, the court shall order the plaintiff to pay the defendant reasonable costs and expenses including, but not limited to, attorneys' fees, lost wages and court costs.

No facility, home health agency or hospice program shall discharge, or in any manner discriminate or retaliate against any person who, in good faith, makes such a report or testifies or is about to testify in any proceeding about the abuse, mistreatment or neglect of a patient or resident or the misappropriation of a patient's or resident's property. A facility, home health agency or hospice program which discharges, discriminates or retaliates against such a person shall be liable to the person so discharged, discriminated or retaliated against, for treble damages, costs and attorneys' fees.

A written report shall contain the following information where applicable: (i) the name and gender of the patient or resident; (ii) the home address of the patient; (iii) the name and address of the facility in which the resident resides; (iv) the name and address of the home health agency or hospice program; (v) the age of the patient or resident, if known to the reporter; (vi) the name and address of the reporter and where such reporter may be contacted; (vii) any information relative to the nature and extent of the abuse, mistreatment or neglect or the misappropriation of patient or resident property; (viii) if known to the reporter, any information relative to prior abuse, mistreatment or neglect of such patient or resident or misappropriation of such patient's or resident's property; (ix) the circumstances under which the reporter became aware of the abuse, mistreatment or neglect or misappropriation of property; (x) if known to the reporter, whatever action, if any, was taken to treat or otherwise assist the patient or resident; (xi) any other information which the reporter believes might be helpful in establishing the cause of such abuse, mistreatment or neglect or misappropriation of property and the person or persons responsible therefor; and (xii) such other information as may be required by the department.

Any privilege established by section 20 or section 20B of chapter 233, by court decision or by professional code relating to the exclusion of confidential communications and the competency of witnesses may not be invoked in any civil action arising out of a report made pursuant to this section.

For the purposes of this section, the term "written report" shall include, without limitation, an electronically transmitted report and facsimile.

Section 72H. The department shall, subject to appropriation:

(1) notify the attorney general forthwith upon receipt of an oral or written report made under the provisions of section 72G;

(2) investigate and evaluate the information reported in any such report. Such investi-

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gation and evaluation shall be made within 24 hours if the department has reasonable cause to believe the patient's or resident's health or safety is in immediate danger from further abuse or neglect and within seven days for all other such reports. The investigation shall include a visit to the facility, the home health agency, the hospice program or the home of the patient, an interview with the patient or resident allegedly abused, mistreated or neglected or whose property was allegedly misappropriated, a determination of the nature, extent and cause or causes of the injuries, the identity of the person or persons responsible therefor and all other pertinent facts. Such determinations and evaluations shall be in the form of a written report;

(3) evaluate the environment of the facility named in the report and make a written determination of the risk of physical or emotional injury to any other residents in such facility;

(4) forward a copy of the department's written report to the attorney general within a reasonable time after a case has been investigated;

(5) if it has reasonable cause to believe that a patient or resident has died as a result of abuse, mistreatment or neglect, immediately report such death to the attorney general, the district attorney for the county in which such death occurred and the medical examiner as required by section 3 of chapter 38; and

(6) promulgate such regulations as may be necessary to implement the provisions of sections 72F to 72J, inclusive.

Section 72I. The department shall, subject to appropriation, maintain a file of the written reports prepared pursuant to sections 72G and 72H. The report submitted by the mandatory or nonmandatory reporter to the department and the report prepared by the department following its investigation shall be confidential.

The patient or resident or counsel therefor, the reporting person or agency, the appropriate professional board of registration or a social worker assigned to the case may, upon written request and the approval of the commissioner, receive a copy of the department's written report.

The department's written report shall not be made available to any person other than those authorized herein without the written, informed consent of the patient or resident or the written approval of the commissioner or an order of a court of competent jurisdiction.

The reports prepared by the department shall contain no identifying information relating to a patient or resident.

A person who causes any information which is contained in the department's files maintained pursuant to section 72I to be released without authorization to persons or agencies other than those specified in this section shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than two and one-half years, or both such fine and imprisonment.

Section 72J. The department shall, subject to appropriation, establish and maintain a registry of all individuals who have met the federal requirements for competency contained in 42 USC §1396r and have been certified as nurse aides for employment in a facility. A facility, other than a rest home, shall only hire or employ on a paid, unpaid, temporary or per-

manent basis, a nurse aide who is listed in said registry as having demonstrated competency as defined by department regulations.

The registry shall also contain specific documented findings, made in accordance with the provisions of this section, by the department of patient or resident abuse, mistreatment or neglect or misappropriation of patient or resident property involving: (1) an individual listed on the registry, (2) a home health aide, and (3) a homemaker and a brief statement by the individual disputing such findings. In the case of inquiries to the registry concerning a nurse aide, a home health aide or a homemaker, any information disclosed concerning such a finding shall also include disclosure of any statement in the registry relating to the finding or a clear and accurate summary of any such statement. All facilities, home health agencies and homemaker agencies shall contact the registry prior to hiring an employee to ascertain if there is any finding of patient or resident abuse, mistreatment, neglect or misappropriation of patient or resident property against a nurse aide, home health aide or homemaker. No facility, home health agency or homemaker agency shall hire an individual whose name appears in the registry with an adjudicated finding of patient or resident abuse, mistreatment, neglect or misappropriation of patient or resident property if such individual is under a suspension imposed by the department under the terms of this section.

The department shall, after notice to the nurse aide, home health aide or homemaker involved in an allegation of patient or resident abuse, mistreatment or neglect or misappropriation of patient or resident property and a reasonable opportunity for a hearing for the individual to rebut such allegations, make a finding as to the accuracy of the allegations. If the department finds that a nurse aide, home health aide or homemaker has abused, mistreated or neglected a patient or resident or misappropriated patient or resident property, said department shall notify the nurse aide, home health aide or homemaker and the employer thereof and the registry of such finding. The department shall not make a finding that an individual has neglected a patient or resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual. Upon making such finding, the department may suspend the right of such individual to work as a nurse aide, home health aide or homemaker. The department shall include the terms of any such suspension in the registry and no facility, home health agency or homemaker agency shall hire said individual until such suspension has been served to its completion.

Section 72K. The attorney general may recover a civil penalty of not more than \$2,500 if a person abuses, mistreats or neglects a patient or resident or misappropriates patient or resident property. Any action brought by the attorney general pursuant to this section shall be exempt from the provisions of section 60B of chapter 231. The provisions of this section shall not exclude any actions brought by the attorney general or a private party pursuant to chapter 93A or to any action by the department pursuant to this chapter.

Section 72L. Upon a finding by the department of patient or resident abuse, mistreatment or neglect or misappropriation of patient or resident property or a failure to report such instances by a licensed or registered professional, the department or the attorney

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general shall notify the appropriate board of registration as provided in chapter 112. If a licensed or registered professional has abused, mistreated or neglected a patient or resident or misappropriated patient or resident property or has failed to report such instances, the appropriate board shall take any necessary disciplinary action, including suspension or revocation of such person's license as provided in section 61 of chapter 112, subject to the prescribed procedures.

Section 72L½. A facility, home health agency, hospice program, the directors thereof and, employees and consultants thereof shall be immune from liability as a result of compliance with the provisions of sections 72F to 72L, inclusive.

A facility, home health agency or hospice program as defined in section 72F which is asked to provide an employment reference with respect to a named individual who is either working for or has worked for such facility, home health agency or hospice program shall not be liable for disclosing information related to the named individual's employment history, including whether the former employee was voluntarily or involuntarily released from service and the reasons for such employee's release from employment with the former employer unless it is alleged and proven that the information disclosed was false and disclosed with knowledge that such information was false.

SECTION 5. No long term care facility, as described in section 172E of chapter 6 of the General Laws, shall be required to obtain criminal offender record information as a condition of continued employment of a person who is currently employed in a position set forth in said section 172E as of the effective date of this act.

Approved September 25, 1998.

Chapter 337. AN ACT AUTHORIZING THE TOWN OF WAKEFIELD TO HOLD A CERTAIN SPECIAL ELECTION.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 11 of chapter 43B of the General Laws or any other general or special law to the contrary, requiring submission at an annual town election, the town of Wakefield is hereby authorized to conduct a special election at which any proposed charter or charters recommended by the charter commission shall be submitted to the voters of said town for their approval. Said special election shall be held on the date of and in conjunction with the biennial state election in the year 1998.

SECTION 2. This act shall take effect upon its passage.

Approved September 28, 1998.

Chapter 338. AN ACT RELATIVE TO TOWN MEETING MEMBERS IN THE TOWN OF FRAMINGHAM.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, a town meeting member of the town of Framingham may be a member of any appointed board, committee or commission of the town, except as excluded by town by-law.

Approved October 1, 1998.

Chapter 339. AN ACT DESIGNATING THE WORDS AND MUSIC OF "SAY HELLO TO SOMEONE IN MASSACHUSETTS" THE OFFICIAL POLKA OF THE COMMONWEALTH.

Be it enacted, etc., as follows:

Chapter 2 of the General Laws is hereby amended by adding the following section:-
Section 44. The words and music of "Say Hello to Someone in Massachusetts" by Lenny Gomulka shall be the official polka of the commonwealth.

Approved October 1, 1998.

Chapter 340. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF NORTHBRIDGE AS THE CORPORAL RICHARD J. AND SERGEANT JOHN P. MORAN MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The bridge, N-2115, spanning the Providence and Worcester Railroad Company tracks on state highway route 122 in the village of Linwood in the town of Northbridge, shall be designated and known as the Corporal Richard J. and Sergeant John P. Moran Memorial Bridge, in honor of the late brothers, who served their country with honor, duty, and dedication and lost their lives in service during World War II. A suitable marker bearing said designation shall be attached thereto by the department of highways in compliance with the standards of said department.

Approved October 1, 1998.

Chapter 341. AN ACT RELATIVE TO PRELIMINARY ELECTIONS IN THE TOWN OF FRAMINGHAM.

Be it enacted, etc., as follows:

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Chapter 34 of the acts of 1979 is hereby amended by striking out section 7 and inserting in place thereof the following section:-

Section 7. If at the expiration of the time for filing nomination papers of candidates to be voted at the preliminary election, not more than three times as many such papers have been filed with the town clerk for at least one office as there are persons to be elected to such office, the candidates whose nomination papers have been filed shall be deemed to have been nominated to said office and their names shall be voted on for such office, at the succeeding regular or special election, as the case may be, and the preliminary election shall not be held. If there is at least one office where more than three times as many nomination papers have been filed then the preliminary election shall be held and all the offices shall be listed on the ballot.

Nominations that are written on the ballot for the preliminary election shall be five in number and meet the requirements of section 6 to be listed as nominees on the ballot for the regular or special election.

Approved October 1, 1998.

Chapter 342. AN ACT RELATIVE TO THE BOARD OF SELECTMEN IN THE TOWN OF BOXBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the board of selectmen of the town of Boxborough shall consist of five members. Said town shall hold a special election within 90 days of the effective date of this act at which time there shall be two selectmen elected, one for a term to expire at the 1999 annual town election and one for a term to expire at the 2000 annual town election. At each annual town election held thereafter, there shall be one or two selectmen elected for a three year term so as to maintain a five member board. Selectmen in office on the effective date of this act shall serve until the expiration of their terms.

SECTION 2. This act shall take effect upon its passage.

Approved October 1, 1998.

Chapter 343. AN ACT RELATIVE TO THE UNION SCHOOL OF THE TOWNS OF NEW SALEM AND WENDELL.

Be it enacted, etc., as follows:

Section 3 of chapter 385 of the acts of 1974 is hereby amended by adding the following paragraph:-

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If the joint school committees fail to determine the amounts necessary to be raised to maintain and operate the Union school, the following provisions shall apply. The joint school committee shall convene a special district wide meeting open to all registered voters in both municipalities at which the Union school district budget, proposed by the joint school committee, shall be considered. Such meeting shall be called pursuant to a warrant, under the hands of at least a majority of the joint school committee, notice of which shall be given at least 14 days prior to the date of such meeting. The warrant shall state the time, place and purpose of the meeting and shall be directed to the joint school committee secretary, who shall give notice by posting a copy in the clerk's office of each town and at least two other public places in each member municipality and who shall further provide notice by publishing a copy of said warrant in at least one newspaper in general circulation within the member municipalities. The boards of selectmen of the member municipalities, in a joint meeting shall, by a majority vote of those present, appoint a town moderator or any other person acceptable to the boards of selectmen to act as moderator and the Union school district secretary shall keep the record of such meeting. Approval of the Union school district budget shall require the affirmative vote of at least a majority of those present and voting thereon, by a counted vote. The Union school district budget so approved shall be apportioned between the member municipalities and paid by them in accordance with the terms of the Union school district agreement. If, after submission of the budget, no agreement is reached as to a budget for the Union school district, the district shall notify the department of education of a lack of a budget and the commissioner, or his designee, shall certify an amount sufficient for the operation of the district and order the appropriation thereof in an amount not less than one-twelfth of the total budget approved by the Union school's region in the most recent fiscal year. Similar sums shall be certified and appropriated for each successive month to insure the continued provision of services by the Union school district until such time as a budget is adopted and approved by the Union school committee and member towns in the manner otherwise provided herein. In the event a budget is not adopted by December 1 in any year, the department shall assume operation of the district and funds for this purpose shall be deducted from local aid distributed to member towns.

Approved October 1, 1998.

Chapter 344. AN ACT RELATIVE TO THE REORGANIZATION OF FRANKLIN COUNTY.

Be it enacted, etc., as follows:

SECTION 1. Section 567 of chapter 151 of the acts of 1996 is hereby amended by striking out subsection (j) and inserting in place thereof the following subsection:-

(j) Notwithstanding the provisions of any general or special law to the contrary, the sheriff of Franklin county shall become an employee of the commonwealth. Said sheriff shall

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remain an elected official under the provisions of section 159 of chapter 54 of the General Laws and shall be known as the Franklin sheriff. Said sheriff shall operate pursuant to the provisions of chapter 37 of the General Laws. Said sheriff shall retain administrative and operational control over the office of the sheriff, the jail and house of correction.

SECTION 2. Subsection (k) of said section 567 of said chapter 151 is hereby amended by striking out the fifth sentence and inserting in place thereof the following sentence:- Such temporary debt shall not exceed one-half of the amount of the most recent year's audited total revenues of the council of governments, except that, for the purpose of such borrowing in the year following the transfer of functions as provided for in subsection (a), revenues associated with such functions may not be included to establish such total base.

SECTION 3. Said subsection (k) of said section 567 of said chapter 151 is hereby further amended by adding the following sentence:- Notwithstanding the provisions of any general or special law to the contrary, the Franklin council of governments committee shall assess the Franklin county retirement system for the services of the director of finance in administering the retirement system; provided, however, that said assessment is based upon the hours devoted by the director of finance to such administration.

SECTION 4. Subsection (w) of said section 567 of said chapter 151, as amended by section 124 of chapter 204 of the acts of 1996, is hereby further amended by striking out the sixth and seventh sentences and inserting in place thereof the following five sentences:- Such proposal shall be voted upon by the legislative bodies of each town in the Franklin county region not later than June 30, 1998. Adoption of such charter proposal shall require a majority vote of the legislative bodies in a majority of the towns or a majority vote in a county wide election. Pursuant to chapters 53, 54, 55 and 55B of the General Laws, the state secretary shall place on the biennial election ballot the names of candidates for any generally elected positions created by any charter proposal established under this section. The nomination papers of candidates for any generally elected positions created by said charter proposal to be filled at a state election shall be signed by 500 voters. Candidates for election for any generally elected positions created by any charter proposal established under this section and the nonelected political committees organized on behalf of such candidates, if any, shall file reports of contributions received or expenditures made in accordance with section 18 of said chapter 55 on or before: (1) the eighth day preceding a biennial state election, and, as a final report, January 20 in the following year complete as to December 31 of the prior year; and (2) the eighth day preceding a special election, the thirtieth day following a special election, and, as a final report, January 20 in the following year complete as to December 31 of the prior year.

SECTION 5. This act shall take effect upon its passage.

Approved October 1, 1998.

Chapter 345. AN ACT EXEMPTING THE POSITION OF SEALER OF WEIGHTS AND MEASURES IN THE TOWN OF HINGHAM FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The position of sealer of weights and measures in the town of Hingham shall be exempt from the provisions of chapter 31 of the General Laws.

SECTION 2. This act shall take effect upon its passage.

Approved October 2, 1998.

Chapter 346. AN ACT RELATIVE TO THE POLICE DEPARTMENT OF THE TOWN OF ROCKLAND.

Be it enacted, etc., as follows:

SECTION 1. Section 2.02(I) of Article II of the charter of the town of Rockland, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by inserting after the first paragraph the following three paragraphs:-

The chief of police shall have full authority to appoint, demote, suspend and terminate all the police officers and command officers of the police department, and for the purposes of the requirements of chapter 31 of the General Laws, and the rules made thereunder shall be considered the appointing authority for the police department.

In original appointments to the permanent-intermittent force, regular full-time force or the promotion of any officer to any rank, said chief of police shall convene an assessment panel comprised of not less than three superior police officers of any police department, who shall interview and recommend the best candidates to said chief of police who shall choose among the names submitted to him by the assessment panel in accordance with the provisions of said chapter 31.

Said chief of police shall appoint such clerical and civilian staff as is authorized by town meeting.

SECTION 2. This act shall take effect upon its passage.

Approved October 8, 1998.

Chapter 347. AN ACT AUTHORIZING THE TOWN OF AUBURN TO ISSUE FIVE ADDITIONAL LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

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Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the town of Auburn may issue five additional licenses for the sale of all alcoholic beverages to be drunk on the premises under the provisions of section 12 of said chapter 138. Such licenses shall be subject to all of the provisions of said chapter 138 except said section 17.

Approved October 8, 1998.

**Chapter 348. AN ACT AUTHORIZING THE TOWN OF TYNGSBOROUGH TO
ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL
ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the town of Tyngsborough may issue to NE Restaurant Company, Inc. a license for the sale of all alcoholic beverages to be drunk on the premises under the provisions of section 12 of said chapter 138. Said license shall be subject to all the provisions of said chapter 138 except for said section 17; provided, however, that said licensing authority shall not approve the transfer of said license within one year after the date of issuance; and provided further, said licensing authority shall not approve the transfer, pledging or issuance of shares of stock of such corporation within one year after the date of issuance of said license.

Approved October 9, 1998.

**Chapter 349. AN ACT AUTHORIZING THE TOWN OF PALMER TO ISSUE AN
ADDITIONAL LICENSE FOR THE SALE OF WINES AND MALT
BEVERAGES TO BE DRUNK ON THE PREMISES.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the town of Palmer may issue a license for the sale of wines and malt beverages to be drunk on the premises under the provisions of section 12 of said chapter 138 to The Palmer Inn. Such license shall be subject to all the provisions of said chapter 138, except said section 17; provided, however, that the licensing authority shall not approve the transfer of such license to any other person, organization, corporation or location for a period of not less than one year.

SECTION 2. This act shall take effect upon its passage.

Approved October 9, 1998.

Chapter 350. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF SPECIAL NEEDS AWARENESS DAY.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 15AAAA, inserted by chapter 118 of the acts of 1998, the following section:-

Section 15BBBB. The governor shall annually issue a proclamation setting apart May 23 as Special Needs Awareness Day, in recognition of those who suffer from physical, mental or emotional disability and recommending that said day be observed in an appropriate manner by the people.

Approved October 9, 1998.

Chapter 351. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS AND NOTES TO BE ISSUED BY THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to facilitate forthwith the issuance of bonds and notes to carry out the purposes of certain acts passed by the general court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section 3 of chapter 189 of the acts of 1998 shall be issued for a term not to exceed 20 years; provided, however, that all such bonds shall be payable by June 30, 2023, as recommended by the governor in a message to the general court dated July 30, 1998, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 2. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section 4 of chapter 189 of the acts of 1998, shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall be no later than June 30, 2002, as recommended by the governor in a message to the general court dated July 30, 1998, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

Approved October 9, 1998.

Chapter 352. AN ACT FURTHER REGULATING THE MEMBERSHIP OF THE BOARD OF STATE EXAMINERS OF PLUMBERS AND GAS FITTERS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 13 of the General Laws is hereby amended by striking out the caption preceding section 36 and inserting in place thereof the following caption:-

BOARD OF STATE EXAMINERS OF PLUMBERS AND GAS FITTERS.

SECTION 2. Said section 36 of said chapter 13, as appearing in the 1996 Official Edition, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There shall be a board of state examiners of plumbers and gas fitters, in sections 37 and 38 called the examiners, to consist of nine members who shall be citizens of the commonwealth, one of whom shall be the commissioner of public health or his designee, one of whom shall be the commissioner of public safety or his designee and seven persons to be appointed by the governor, one of whom shall have at least ten years of practical experience as a master plumber, one of whom shall be a journeyman plumber with at least ten years of practical experience and who is a wage earner, one of whom shall be a sanitary or plumbing engineer, one of whom shall be a master gas fitter with at least ten years of practical experience in the field of undiluted liquefied petroleum gas and natural gas, one of whom shall be a journeyman gas fitter with at least ten years of practical experience and who is a wage earner, one of whom shall be a master or journeyman gas fitter with at least ten years of practical experience in the design and installation of liquefied petroleum gas systems and one of whom shall be a representative of the public subject to the provisions of section 9B. As the term of office of a member expires, the governor shall appoint a successor to serve for three years. The governor shall designate the chairperson of the board and may, at any time, change such designation.

Approved October 9, 1998.

Chapter 353 AN ACT PROVIDING EARLY RETIREMENT BENEFITS TO WATER TREATMENT PLANT OPERATORS AT THE WATER DEPARTMENT OF THE CITY OF CAMBRIDGE DUE TO THE CLOSURE OF THE TREATMENT PLANT FOR RENOVATION.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter 32 of the General Laws or any other general or special law to the contrary, the city of Cambridge, acting through the city manager, may, as of an effective date to be determined by said city manager, establish that a limited number of employees of said city, no greater than five who are employed and paid by the water department as water treatment plant operators, at grades I through IV, who are

members of the retirement system of said city and otherwise eligible for a superannuation retirement, who shall have filed a written application for superannuation retirement pursuant to section 5 of said chapter 32 no earlier than 30 days after such effective date, but no later than 60 days after such effective date, specifying a retirement date no later than 90 days after such effective date, shall have their normal yearly amount of the retirement allowance as determined under paragraph (a) of subdivision (2) of said section 5 of said chapter 32 computed according to the table contained in said paragraph (a) based upon the age of such member and his number of years and full months of creditable service at the time of his retirement increased, at the option of the employee, by up to three years of age or by up to three years of creditable service or by a combination of additional years of age and service the sum of which shall not be greater than three; provided, however, that whereas participation under this act is limited to five eligible employees employed as water treatment plant operators in the water department of said city, the retirement of employees with the greatest creditable service from among those eligible and so applying shall be approved before approval is given to employees with lesser creditable service.

SECTION 2. As used in this act, the words used herein shall have the same meaning as in chapter 32 of the General Laws unless the context clearly requires otherwise. An employee who retires and receives an additional benefit in accordance with the provisions of this act shall be deemed to be retired for superannuation under the provisions of said chapter 32 and shall be subject to the provisions of said chapter 32.

SECTION 3. The total normal yearly amount of the retirement allowance, as determined in accordance with the provisions of section 5 of chapter 32 of the General Laws, of any employee who retires and receives an additional benefit in accordance with the provisions of this act shall not exceed four-fifths of the average annual rate of his regular compensation received during any period of three consecutive years of creditable service for which such rate of compensation was the highest or of the average annual rate of regular compensation received by such member during the period or periods, whether consecutive or not, constituting his last three years of creditable service preceding retirement.

SECTION 4. The retirement board of the city of Cambridge shall prepare a funding schedule which shall reflect the costs and the actuarial liabilities attributable to the additional benefits payable under this section and said schedule shall be designed to reduce the retirement system's additional pension liability of said city attributable to such costs and liabilities to zero on or before June 30, 2013; provided, however, that said retirement board shall triennially update such schedule until June 30, 2013.

SECTION 5. This act shall take effect upon its passage.

Approved October 15, 1998.

Chapter 354. AN ACT AUTHORIZING THE TOWN OF MEDWAY TO ABATE A CERTAIN BETTERMENT.

Be it enacted, etc., as follows:

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Notwithstanding the provisions of any general or special law to the contrary, the town of Medway may abate the sewer betterment assessed on the property located at 46 Ellis Street in said town and may refund any interest paid thereon to the owner of record of said property at the time the betterment was assessed.

Approved October 15, 1998.

Chapter 355. AN ACT RELATIVE TO CERTAIN NONGROUP HEALTH INSURANCE PRODUCTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to preserve and maintain forthwith the affordability of certain nongroup health insurance policies in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Subsection (a) of section 4 of chapter 176M of the General Laws is hereby amended by adding after paragraph (5), added by section 195 of chapter 194 of the acts of 1998, the following paragraph:-

(6) When a carrier replaces coverage for members in a closed health plan with coverage in a guaranteed issue health plan in the allowable three year period, nothing in this section shall preclude said carrier from maintaining rates or limiting rate increases for the members formerly in any of its closed health plans during the remainder of said period. If a carrier chooses to maintain rates or limit rate increase as provided for herein, the carrier shall do so to the same extent for every member in the same rating classification, including any age rate and area rate adjustment, within each closed health plan, and consistent with such rate adjustments as specified in this section. In no event shall such rates exceed the carrier's prevailing rates for the guaranteed issue health plan.

SECTION 2. The provisions of this act shall take effect as of July 1, 1998.

Approved October 15, 1998.

Chapter 356. AN ACT AUTHORIZING THE CITY OF WESTFIELD TO ABATE AND REFUND CERTAIN PROPERTY TAXES.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, the city of Westfield, acting by and through its board of assessors, may abate real estate taxes assessed on the property located at 32 Rambling Drive in said city in the amount of \$175, as well as related

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interest and fees in the amount of \$36, for the fiscal year 1996 and to refund to Lawrence G. Talbot said amount to which he is entitled to under the provisions of clause Twenty-second of section 5 of chapter 59 of the General Laws.

Approved October 15, 1998.

Chapter 357. AN ACT AUTHORIZING CERTAIN STRUCTURES TO BE EXEMPT FROM CERTAIN HARBOR LINES IN THE SOUTH BOSTON SECTION OF THE CITY OF BOSTON.

Be it enacted, etc., as follows:

Notwithstanding the provisions of sections 14 and 34 of chapter 91 of the General Laws or any other general or special law to the contrary, the department of environmental protection is hereby authorized to grant a license to the Peninsula Yacht Club in the South Boston section of the city of Boston to construct, maintain and repair a floating barge secured by piles, together with walkways and a docking facility to be located in whole or in part beyond the harbor line in the Reserve Channel between the westerly side of said Reserve Channel between the westerly side of the Summer Street Bridge and attached to said bridge or with similar existing walkway access and attachment to any replacement bridge, in said city of Boston, such harbor line having been established by certain laws including, but not limited to, chapter 170 of the acts of 1880; provided, however, that nothing in this section shall be construed to exempt said Peninsula Yacht Club from the substantive and procedural requirements of said chapter 91 and its regulations, other than the exemption authorized herein from the harbor line requirements of said sections 14 and 34 of said chapter 91.

Approved October 15, 1998.

Chapter 358. AN ACT RELATIVE TO THE ISSUANCE OF FIREARM LICENSES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to further regulate the issuance of firearm licenses in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 168B of chapter 6 of the General Laws is hereby amended by striking out the figures "122 to 131P", inserted by section 1 of chapter 180 of the acts of 1998, and inserting in place thereof the following figures:- 121 to 131P.

SECTION 2. Section 12A of chapter 112 of the General Laws is hereby amended

by striking out the last sentence, added by section 5 of chapter 180 of the acts of 1998, and inserting in place thereof the following sentence:- The colonel of state police shall make available to the commissioner of public health all reports regarding: (i) bullet wounds, gunshot wounds, powder burns or any other injury arising from or caused by the discharge of a rifle, shotgun, firearm or air rifle; (ii) burn injuries affecting 5 per cent or more of the surface area of the human body; and (iii) wounds or injuries caused by a knife or other sharp or pointed instrument; provided, however, that personal information identifying the victim or the perpetrator may be redacted if the release of such information may compromise an investigation.

SECTION 3. Clause Eighteenth of section 123 of chapter 140 of the General Laws, as appearing in section 19 of said chapter 180, is hereby amended by striking out the fifth sentence and inserting in place thereof the following sentence:- A firearm shall pass this test if it fires the first 20 rounds without a malfunction, fires the full 600 rounds with not more than six malfunctions and completes the test without any crack or breakage of an operating part of the firearm.

SECTION 4. Section 129B of said chapter 140, as amended by section 29 of said chapter 180, is hereby further amended by striking out paragraph (3) and inserting in place thereof the following paragraph:-

(3) The licensing authority may not prescribe any other condition for the issuance of a firearm identification card and shall, within 40 days from the date of application, either approve the application and issue the license or deny the application and notify the applicant of the reason for such denial in writing; provided, however, that no such card shall be issued unless the colonel has certified, in writing, that the information available to him does not indicate that the possession of a rifle or shotgun by the applicant would be in violation of state or federal law.

SECTION 5. The fourth paragraph of section 129C of said chapter 140 is hereby amended by striking out clause (r), as appearing in the 1996 Official Edition, and inserting in place thereof the following clause:-

(r) Possession by a veteran's organization chartered by the Congress of the United States, chartered by the commonwealth or recognized as a nonprofit tax-exempt organization by the Internal Revenue Service and possession by the members of any such organization when on official parade duty or ceremonial occasions.

SECTION 6. Paragraph (d) of section 131 of said chapter 140, as appearing in section 41 of chapter 180 of the acts of 1998, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following paragraph:-

Any person residing or having a place of business within the jurisdiction of the licensing authority or any person residing in an area of exclusive federal jurisdiction located within a city or town may submit to such licensing authority or the colonel of state police, an application for a Class A or Class B license to carry firearms, or renewal of the same, which such licensing authority or said colonel may issue if it appears that the applicant is a suitable person to be issued such license, and that the applicant has good reason to fear injury

to his person or property, or for any other reason, including the carrying of firearms for use in sport or target practice only, subject to such restrictions expressed or authorized under this section, unless the applicant:

SECTION 7. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out paragraph (j) and inserting in place thereof the following paragraph:-

(j)(1) No license shall be required for the carrying or possession of a firearm known as a detonator and commonly used on vehicles as a signaling and marking device, when carried or possessed for such signaling or marking purposes.

(2) No license to carry shall be required for the possession of an unloaded large capacity rifle or shotgun or an unloaded feeding device therefor by a veteran's organization chartered by the Congress of the United States, chartered by the commonwealth or recognized as a nonprofit tax-exempt organization by the Internal Revenue Service, or by the members of any such organization when on official parade duty or during ceremonial occasions. For purposes of this subparagraph, an "unloaded large capacity rifle or shotgun" and an "unloaded feeding device therefor" shall include any large capacity rifle, shotgun or feeding device therefor loaded with a blank cartridge or blank cartridges, so-called, which contain no projectile within such blank or blanks or within the bore or chamber of such large capacity rifle or shotgun.

SECTION 8. Paragraph (m) of said section 131 of said chapter 140, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Notwithstanding the provisions of section 10 of chapter 269, any person in possession of a firearm, rifle or shotgun whose license issued under this section is invalid for the sole reason that it has expired, but who shall not be disqualified from renewal upon application therefor under this section, shall be subject to a civil fine of not less than \$500 nor more than \$5,000 and the provisions of section 10 of chapter 269 shall not apply; provided, however, that the exemption from the provisions of said section 10 of said chapter 269 provided herein shall not apply if: (i) such license has been revoked or suspended, unless such revocation or suspension was caused by failure to give notice of a change of address as required under this section; (ii) revocation or suspension of such license is pending, unless such revocation or suspension was caused by failure to give notice of a change of address as required under this section; or (iii) an application for renewal of such license has been denied.

SECTION 9. Paragraph (o) of said section 131 of said chapter 140, as so appearing, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following paragraph:-

No person shall be issued a license to carry or possess a machine gun in the commonwealth, except that a licensing authority or the colonel of state police may issue a machine gun license to:.

SECTION 10. Chapter 269 of the General Laws is hereby amended by striking out section 12D, as amended by section 72 of said chapter 180, and inserting in place thereof the following section:-

Section 12D. (a) Except as exempted or provided by law, no person shall carry on his person on any public way a loaded rifle or shotgun having cartridges or shells in either the magazine or chamber thereof. For purposes of this section, "loaded shotgun or loaded rifle" shall mean any shotgun or rifle having ammunition in either the magazine or chamber thereof, such ammunition including a live cartridge, primer (igniter), bullet or propellant powder designed for use in any firearm, rifle or shotgun and, in the case of a muzzle loading or black powder shotgun or rifle, so-called, a shotgun or rifle containing powder in the flash pan or in the bore or chamber or containing a percussion cap, shot or ball; provided, however, that "loaded shotgun or loaded rifle" shall not include a shotgun or rifle loaded with a blank cartridge, so-called, which contains no projectile within such blank or within the bore or chamber of such shotgun or rifle.

Whoever violates the provisions of this subsection shall be punished by a fine of not less than \$500 nor more than \$5,000 or by imprisonment in the house of correction for not more than two years, or by both such fine and imprisonment, and may be arrested without a warrant; provided, however, that if such rifle or shotgun is a large capacity weapon, as defined in section 121 of chapter 140, such person shall be punished by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment, and may be arrested without a warrant.

(b) Except as exempted or provided by law, no person shall carry on his person on any public way an unloaded rifle or shotgun, unless such rifle or shotgun is enclosed in a case.

Whoever violates the provisions of this subsection shall be punished by a fine of not less than \$100 nor more than \$1,000, and may be arrested without a warrant; provided, however, that if such unloaded rifle or shotgun is a large capacity weapon and is carried simultaneously with a fully or partially loaded large capacity feeding device, such person shall be punished by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment, and may be arrested without a warrant.

This subsection shall not apply to drills, parades, military reenactments or other commemorative ceremonies, color guards or memorial service firing squads, so-called, as permitted by law.

(c) Upon a conviction of a violation of any provision of this section, such rifle or shotgun shall be confiscated by the commonwealth and, upon written order of the court, such weapon shall be forwarded to the colonel of the state police, who may dispose of such weapon in the manner prescribed in section 10.

(d) The provisions of this section shall not apply to the carrying of a loaded or unloaded rifle or shotgun on a public way by (i) any officer, agent or employee of the commonwealth or any other state or the United States, including any federal, state or local law enforcement personnel; (ii) any member of the military or other service of any state or the United States, including members of the national guard, reserves and junior reserve officer training corps; (iii) any duly authorized law enforcement officer, agent or employee

of any municipality of the commonwealth; provided, however, that any such person described in clauses (i) to (iii), inclusive, shall be authorized by a competent authority to so carry a loaded or unloaded rifle or shotgun on a public way and such person is acting within the scope of his duties or training; or (iv) a person who is lawfully engaged in hunting and is the holder of a valid hunting or sporting license issued pursuant to chapter 131. This section shall not apply to the operation of a shooting gallery, licensed and defined under the provisions of section 56A of chapter 140, nor to persons using the same.

SECTION 11. Chapter 180 of the acts of 1998 is hereby amended by striking out section 73 and inserting in place thereof the following section:-

Section 73. Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, all firearm identification cards issued under section 129B of chapter 140 of the General Laws prior to the effective date of this act shall expire on the following schedule: if a person's anniversary of birth is between July 1 and December 31, inclusive, such card shall expire on the cardholder's anniversary of birth in 1999; if a person's anniversary of birth is between January 1 and June 30, inclusive, such card shall expire on the holder's anniversary of birth in 2000. Any such card issued to an applicant born on February 29, for the purposes described herein, shall expire on March 1. A firearm identification card lawfully possessed on the effective date of this act shall be valid, unless revoked or suspended, until it expires under this section for the purpose of possessing large capacity rifles or shotguns or large capacity feeding devices therefor or possessing any firearm or feeding device lawfully owned on the effective date of this act that was purchased with a permit issued under section 131A of said chapter 140; provided, however, that such card shall not be valid for the purpose of purchasing, leasing or otherwise receiving through transfer large capacity rifles or shotguns or large capacity feeding devices. Nothing herein shall prohibit such person from possessing, purchasing, leasing or otherwise receiving through transfer nonlarge capacity rifles, shotguns or ammunition feeding devices therefor or from applying for a license to carry firearms pursuant to the provisions of said section 131 of said chapter 140.

Any person who lawfully owns a large capacity or nonlarge capacity firearm or feeding device therefor, on the effective date of this act that was purchased with a permit issued under said section 131A of said chapter 140 shall, unless such firearm and feeding device are transferred in accordance with the provisions of said chapter 140, apply for a firearm identification card under the provisions of section 129B of said chapter 140. Unless such applicant is disqualified under the provisions of said section 129B, such card shall be issued; provided, however, that if such card may not be issued, all firearms, ammunition and ammunition feeding devices therefor shall be surrendered in accordance with the provisions of section 129D of said chapter 140; provided further, that the requirements for obtaining a card under said section 129B shall not apply to such person that possesses valid proof of exemption under the provisions of section 129C of said chapter 140. Nothing herein shall permit such person to possess or carry any firearm outside his residence or business unless such person obtains a Class A or Class B license to carry firearms pursuant to the provisions

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of said section 131 of said chapter 140.

Any license to carry firearms lawfully possessed on the effective date of this act shall be valid, unless revoked or suspended, until the stated expiration date of such license for all lawful purposes for which it was issued and such license shall be deemed a Class A license.

The secretary of the executive office of public safety or his designee shall promulgate regulations necessary to implement the provisions of this act, and shall ensure that notice be provided through the most effective means possible to each such cardholder and licensee of the upcoming expiration dates of such cards and licenses, and instructing such holders with regard to renewal procedures, entitlements and restrictions provided under this act including, but not limited to, entitlements and restrictions relative to large capacity weapons and ammunition feeding devices.

SECTION 12. This act shall take effect on October 21, 1998.

Approved October 19, 1998.

**Chapter 359. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF
ROBERT FROST DAY.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to designate forthwith the fourth Saturday in October as Robert Frost Day, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 15BBBB, inserted by chapter 350 of the acts of 1998, the following section:-

Section 15CCCC. The governor shall annually issue a proclamation setting apart the fourth Saturday in October as Robert Frost Day, in recognition of Robert Frost's years in the commonwealth, during which time he lived and was educated in the city of Lawrence, and recommending that said day be observed in an appropriate manner by the people.

Approved October 21, 1998.

**Chapter 360. AN ACT RELATIVE TO THE ELECTION OF THE CITY CLERK IN
THE CITY OF SPRINGFIELD.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the current term of office for the city clerk of the city of Springfield shall expire on

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the first Monday in January in 2004, thereafter, the city council shall elect a city clerk for a term of six years and until a successor is qualified.

SECTION 2. This act shall take effect upon its passage.

Approved October 21, 1998.

**Chapter 361. AN ACT AUTHORIZING THE TOWN OF CANTON TO ISSUE AN
ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC
BEVERAGES TO BE DRUNK ON THE PREMISES.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the town of Canton may issue to the Irish Cultural Centre, Inc., a license to sell all alcoholic beverages to be drunk on the premises under the provisions of section 12 of said chapter 138. Such license shall be subject to all of the provisions of said chapter 138, except for said section 17; provided, however, that the licensing authority shall not approve the transfer of such license to any other person, organization, corporation or location.

SECTION 2. This act shall take effect upon its passage.

Approved October 21, 1998.

**Chapter 362. AN ACT REGULATING THE USE OF SNOW VEHICLES ON
PRIVATELY OWNED PROPERTY.**

Be it enacted, etc., as follows:

Section 26 of chapter 90B of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the fourth paragraph the following paragraph:-

No person shall operate a snow vehicle on privately owned property, except in cases of emergency, unless: (a) the operator is the owner or lessee or immediate family member of the owner or lessee of such property; (b) the operator has in his possession either a document, signed by the owner or lessee of such property or his agent, authorizing the operation of a snow vehicle on such property by the operator or valid proof of current membership in a club, association or other organization to which express authorization for the operation of snow vehicles on such property has been granted; provided, however, that such operation shall be consistent with the express authorization so granted and any restrictions imposed therewith; or (c) the owner or lessee of such property has designated the area for use by such snow vehicles by posting reasonable notice of such designation in a manner approved by the director.

Emergency Letter: November 17, 1998 @ 3:55 P.M.

Approved October 23, 1998.

Chapter 363. AN ACT AUTHORIZING THE TOWN OF BILLERICA TO REFUND CERTAIN TAXES.

Be it enacted, etc., as follows:

The board of assessors of the town of Billerica is hereby authorized to refund, from its general overlay reserve or from such other funds, with respect to any fiscal year from 1981 to 1992, inclusive, for taxes erroneously paid during said period.

Approved October 23, 1998.

Chapter 364. AN ACT PROVIDING FOR THE PAYMENT OF CERTAIN RETIREMENT AND MEDICAL BENEFITS TO JOHN LYNCH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the payment of certain retirement and medical benefits to John Lynch, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary and in order to promote the public good, the state board of retirement is hereby authorized and directed to retire John Lynch, a paramedic currently employed by the University of Massachusetts Medical Center, who, as a result of injuries or illness contacted while in the performance of his duties while working for the city of Worcester, is totally and permanently incapacitated from further service as a paramedic. The annual amount rate of pension payable to said John Lynch shall be fixed in an amount equal to 72 per cent of his current regular rate of compensation for service at the grade held by him as a paramedic at said medical center. Such retirement shall become effective as of the date following the last day on which he received regular compensation. Upon such retirement, said retirement board shall forthwith pay to him the amount credited to him as accumulated total deductions in the annuity savings of the state employees' retirement system pursuant to his option selection. The actuary shall compute the appropriate proration of the pension portion of the retirement allowance pursuant to the provisions of subdivision (5) of section 7 of chapter 32 of the General Laws.

SECTION 2. The city of Worcester shall be responsible for all reasonable and necessary hospital, medical and related expenses that have been or may be incurred by John Lynch after the date of his retirement and as a result of the injuries or illness sustained by him while in the performance of his duties. Said indemnification shall be retroactive to the first diagnosis of such injury or illness while in the employment of said city of Worcester and shall be paid pursuant to sections 13 and 30 of chapter 152 of the General Laws.

SECTION 3. Upon the death of John Lynch, resulting from the injuries or illness

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sustained by him as described in section 1, if his wife survives him, the state board of retirement shall pay to her, so long as she remains unmarried, an annuity in the amount of three-fourths of the amount of the pension payable to him per month at the time of his death. If said wife remarries, said state retirement board shall pay in lieu of the aforesaid annuity, an annuity of \$520 per month to her.

SECTION 4. John Lynch shall be entitled to retroactive compensation consistent with the provisions of section 111M of chapter 41 of the General Laws for any periods for which he has not already received compensation.

SECTION 5. Notwithstanding the provisions of any general or special law to the contrary, this act is intended to effectuate a waiver of rights on behalf of John Lynch and any and all existing or future dependents as set forth in section 111M of chapter 41 of the General Laws.

Approved October 23, 1998.

Chapter 365. AN ACT RELATIVE TO THE CAMBRIDGE PUBLIC HEALTH COMMISSION.

Be it enacted, etc., as follows:

Subsection (f) of section 3 of chapter 147 of the acts of 1996 is hereby amended by striking out the first sentence and inserting in place thereof the following two sentences:- Except as otherwise provided in this act, chapters 31, 32, 32B and 268A of the General Laws and all other provisions of law applicable to government entities but inapplicable to nonprofit corporations, shall not apply to the operations and employees of Somerville hospital upon acquisition or management thereof by the city or the commission, for so long as said Somerville hospital shall be construed as a nonprofit corporation, nor shall said chapters and provisions apply to any other nonprofit corporation owned or controlled by the commission. Chapter 150E of the General Laws shall apply to employees of said Somerville hospital upon the acquisition or management thereof by the city or the commission and said chapter 150E shall apply to any other nonprofit corporation owned or controlled by the commission.

Approved October 23, 1998.

Chapter 366. AN ACT DESIGNATING THE REPRESENTATIVE JAMES R. MICELI BRIDGE AND THE JOHN T. HEGARTY OVERPASS.

Be it enacted, etc., as follows:

SECTION 1. The bridge on Burlington avenue, known as the Burlington avenue bridge, spanning the Massachusetts Bay Transportation Authority railroad tracks in the town

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of Wilmington shall be designated and known as the Representative James R. Miceli Bridge, in honor of Representative James R. Miceli, in recognition of his service to his community and country. The department of highways shall erect suitable markers bearing said designation in compliance with the standards of said department.

SECTION 2. That portion of the Central Artery/Third Harbor Tunnel Project which constitutes the overpass connecting the South Boston Bypass road with the southbound Frontage road on the west side of interstate highway route 93 at the Massachusetts avenue interchange shall be designated and known as the John T. Hegarty Memorial Overpass, in memory of John T. Hegarty of Boston, who on March 11, 1998 died while working on construction of the Central Artery/Third Harbor Tunnel Project. The department of highways shall erect a suitable marker bearing said designation in compliance with the standards of said department.

Approved October 23, 1998.

Chapter 367. AN ACT AUTHORIZING THE TOWN OF BILLERICA TO MAKE A CERTAIN REIMBURSEMENT.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of Billerica may reimburse Joseph Dougherty the sum of \$9,310 for legal expenses incurred by him in a civil action against said town.

Approved October 23, 1998.

Chapter 368. AN ACT RELATIVE TO THE APPOINTMENT OF MEMBERS OF THE TOWN BUILDING COMMITTEE IN THE TOWN OF SHREWSBURY.

Be it enacted, etc., as follows:

The first paragraph of section 5 of chapter 559 of the acts of 1953 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A member of the board of selectmen, the school committee, or the finance committee, shall, during the term for which he was elected or appointed, be ineligible to hold any other elective or appointed town office or position other than town meeting member; provided, however, that a member of said board of selectmen may be appointed to serve as a member of a town building committee.

Approved October 28, 1998.

Chapter 369. AN ACT RELATIVE TO THE PENSION BENEFITS PAYABLE TO ANNA PONCIN AND SHARON HEWITT BY THE ATTLEBORO RETIREMENT SYSTEM.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the Attleboro retirement board shall pay to Anna Poncin, the widow of Lawrence Poncin who died on March 4, 1998 as the result of injuries sustained on March 4, 1998 while in the performance of his duties as a foreman with the city of Attleboro water department, an accidental death benefit from the date of his death under section 9 of chapter 32 of the General Laws, said accidental death benefit allowance subject to the provisions and limitations of said section 9 shall consist of a yearly amount of such allowance equal to the annual rate of regular compensation which would have been payable to said Lawrence Poncin had he continued in the service of the city of Attleboro at the grade held by him at the time of his death. The payments of such pension shall be diminished by the amounts payable to the dependents of such Lawrence Poncin under the provisions of section 31 of chapter 152 of the General Laws.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the Attleboro retirement board shall pay to Sharon Hewitt, the widow of Bernard Hewitt who died on March 4, 1998 as the result of injuries sustained on March 4, 1998 while in the performance of his duties as a laborer with the city of Attleboro public works department, an accidental death benefit from the date of his death under section 9 of chapter 32 of the General Laws, said accidental death benefit allowance subject to the provisions and limitations of said section 9 shall consist of a yearly amount of such allowance equal to the annual rate of regular compensation which would have been payable to said Bernard Hewitt had he continued in the service of the city of Attleboro at the grade held by him at the time of his death. The payments of such pension shall be diminished by the amounts payable to the dependents of such Bernard Hewitt under the provisions of section 31 of chapter 152 of the General Laws.

SECTION 3. Anna Poncin shall be eligible to receive the benefits of section 9D½ of chapter 32B of the General Laws.

SECTION 4. Sharon Hewitt shall be eligible to receive the benefits of section 9D½ of chapter 32B of the General Laws.

SECTION 5. This act shall take effect upon its passage.

Approved October 29, 1998.

Chapter 370. AN ACT RELATIVE TO THE GREATER LAWRENCE SANITARY DISTRICT.

Be it enacted, etc., as follows:

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Section 2 of chapter 750 of the acts of 1968 is hereby amended by striking out the last paragraph, added by section 2 of chapter 320 of the acts of 1970, and inserting in place thereof the following paragraph:-

The director of public works of the city of Lawrence shall be a member ex-officio and shall have full voting powers; the remaining members of the district commission appointed by the city of Lawrence shall be appointed by the mayor with the approval of the city council. Members appointed by the town of Andover shall be appointed by the town manager with the approval of the board of selectmen. Members from the towns of Methuen and North Andover shall be appointed by the board of selectmen.

Approved October 30, 1998.

Chapter 371. AN ACT AUTHORIZING THE TOWNS OF HEATH, HAWLEY AND CHARLEMONT TO ACQUIRE A CERTAIN PARCEL OF LAND.

Be it enacted, etc., as follows:

SECTION 1. The towns of Heath, Charlemont and Hawley, or any two of said towns, acting by and through their boards of selectmen, are hereby authorized to acquire by gift, purchase or eminent domain under chapter 79 of the General Laws and, if more than one town acquires, may hold as tenants in common pursuant to an intermunicipal agreement under section 4A of chapter 40 of the General Laws the land in the town of Heath on Burrington road, now or formerly owned by Constance D. Burrington, consisting of approximately 17.450 acres, being a portion of the land described in a deed recorded with the Franklin county registry of deeds in Book 1242, Page 328, formerly used as a municipal sanitary landfill by said towns, for the purpose of closure of said landfill or, if the board of selectmen of each town holding such land determines that the land is no longer needed for such purpose, for any other public purpose or for conveyance; provided, however, that such agreement may be for such duration as may be authorized by said towns.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the land to be acquired under this act shall be exempt from taxation for the fiscal year next following its acquisition and taxes for the remainder of the fiscal year of its acquisition shall be abated from the date of its acquisition and no town owning such land as a tenant in common with the town of Heath shall be obliged to make any payment in lieu of taxes to the town of Heath.

SECTION 3. The acquisition of this land shall be exempt from the requirements of chapter 30B of the General Laws.

SECTION 4. This act shall take effect upon its passage.

Approved October 30, 1998.

Chapter 372. AN ACT FURTHER REGULATING MEDICAL MALPRACTICE INSURANCE.

Be it enacted, etc., as follows:

SECTION 1. Section 193U of chapter 175 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Every medical malpractice insurer shall make available to every health care provider every primary medical malpractice insurance coverage, as defined in the plan or rules of operation of the medical malpractice reinsurance plan, which it provides to any health care provider; provided, however, that only a medical malpractice insurer may cede any primary medical malpractice insurance policy issued to a health care provider to the medical malpractice reinsurance plan.

SECTION 2. The third paragraph of said section 193U of said chapter 175, as so appearing, is hereby amended by striking out the definition of "Eligible health care provider".

SECTION 3. Said third paragraph of said section 193U of said chapter 175, as so appearing, is hereby further amended by striking out the definition of "Health care provider" and inserting in place thereof the following definition:-

"Health care provider", any category of health care provider that was authorized to obtain medical malpractice insurance from the Joint Underwriting Association established by section 6 of chapter 362 of the acts of 1975, including but not limited to, a doctor of medicine, osteopathy, optometry, dental science, podiatry, chiropractic, or registered nurse licensed under the provisions of chapter 112, an intern, fellow or medical officer licensed under the provisions of section 9 of said chapter 112 or a licensed hospital, clinic, or nursing home, and its agents and employees, and any other category of health care provider as the commissioner of insurance may from time to time designate as eligible for being ceded to the medical malpractice reinsurance plan.

SECTION 4. Said section 193U of said chapter 175, as so appearing, is hereby further amended by striking out the definition of "Medical malpractice insurer" and inserting in place thereof the following definition:-

"Medical malpractice insurer", any corporation that is licensed, admitted, authorized or approved to write liability other than auto insurance on risks within the commonwealth on a direct basis. The term "medical malpractice insurer" shall not include: (1) a corporation or other entity that is formed under the laws of any jurisdiction other than a state of the United States or the District of Columbia and that is engaged in writing (i) medical malpractice insurance for the members, shareholders or owners of such corporation or other entity, including affiliates of such members, shareholders, owners and persons employed by, affiliated with or providing professional services to such members, shareholders, owners or affiliates, and any servicing carrier thereof, or (ii) reinsurance on medical malpractice insurance written by a fronting company for the members, shareholders or owners of such corporation or other entity, including affiliates of such members, shareholders, owners or affiliates, and any servicing carrier thereof; (2) a trust maintained by the University of Massa-

chusetts to self fund medical malpractice risks; (3) a risk retention group, as defined in the Liability Risk Retention Act of 1986, 15 U.S.C. 3901; or (4) a surplus lines insurer, so-called, insuring in the commonwealth under the requirements of section 168.

SECTION 5. Said section 193U of said chapter 175, as so appearing, is hereby further amended by striking out, in line 53, the figure "3902" and inserting in place thereof the following figure:- 3901.

SECTION 6. Said section 193U of said chapter 175, as so appearing, is hereby further amended by striking out, in lines 7 and 14, the word "eligible".

SECTION 7. Section 9 of chapter 330 of the acts of 1994 is hereby amended by striking out the definition of "Medical malpractice insurer" and inserting in place thereof the following definition:-

"Medical malpractice insurer", any corporation that is licensed, admitted, authorized or approved to write liability other than auto insurance on risks within the commonwealth on a direct basis. The term "medical malpractice insurer" shall not include: (1) a corporation or other entity that is formed under the laws of any jurisdiction other than a state of the United States or the District of Columbia and that is engaged in writing (i) medical malpractice insurance for the members, shareholders or owners of such corporation or other entity, including affiliates of such members, shareholders, owners and persons employed by, affiliated with or providing professional services to such members, shareholders, owners or affiliates, and any servicing carrier thereof, or (ii) reinsurance on medical malpractice insurance written by a fronting company for the members, shareholders or owners of such corporation or other entity, including affiliates of such members, shareholders, owners or affiliates, and any servicing carrier thereof; (2) a trust maintained by the University of Massachusetts to self fund medical malpractice risks; (3) a risk retention group, as defined in the Liability Risk Retention Act of 1986, 15 U.S.C. 3901; or (4) a surplus lines insurer, so-called, insuring in the commonwealth under the requirements of section 168 of chapter 175 of the General Laws.

SECTION 8. Said section 9 of said chapter 330 is hereby further amended by striking out the definition of "Health care provider" and inserting in place thereof the following definition:-

"Health care provider", any category of health care provider that was authorized to obtain medical malpractice insurance from the Joint Underwriting Association established by section 6 of chapter 362 of the acts of 1975, including, but not limited to, a doctor of medicine, osteopathy, optometry, dental science, podiatry, chiropractic, or registered nurse licensed under the provisions of chapter 112 of the General Laws, an intern, fellow or medical officer licensed under the provisions of section 9 of said chapter 112 or a licensed hospital, clinic, or nursing home, and its agents and employees, and any other category of health care provider as the commissioner of insurance may from time to time designate as eligible for being ceded to the medical malpractice reinsurance plan.

SECTION 9. Said section 9 of said chapter 330 is hereby further amended by striking out the definition of "Eligible health care provider".

SECTION 10. The definition of "Net direct premiums" of said section 9 of said chapter 330 is hereby amended by striking out, in line 3, the word "computed" and inserting in place thereof the following word:- approved.

SECTION 11. Subsection 8 of said section 9 of said chapter 330 is hereby amended by striking out, in lines 2 and 3, the word "eligible".

SECTION 12. Section 10 of said chapter 330 is hereby amended by inserting after the third paragraph the following paragraph:-

The governing committee shall determine by amendment to the plan or rules of operation what constitutes primary medical malpractice insurance coverage. In addition, the governing committee may by amendment to the plan or rules of operation determine the limits of liability of such primary medical malpractice insurance coverage which may be ceded to the plan.

SECTION 13. The fifth paragraph of said section 10 of said chapter 330 is hereby amended by striking out, in line 2, the word "board" and inserting in place thereof the following word:- committee.

SECTION 14. Said section 10 of said chapter 330 is hereby further amended by striking out the eighth paragraph and inserting in place thereof the following paragraph:-

Following the close of each policy year, the governing committee shall determine the premiums charged for reinsurance coverage, the reinsurance plan expenses for administration, and the incurred losses, if any, for the policy year, taking into account investment income and other appropriate gains and losses. Any net loss for such policy year shall be recouped by assessment of the members. Said assessment shall be apportioned in the proportion that the direct premiums written by each member during the corresponding calendar year bears to the aggregate direct premiums written in the commonwealth by all medical malpractice insurers during the corresponding calendar year. Any assessment may be adjusted to reflect differences in utilization among members and other appropriate factors. Deficit assessments shall be included as an appropriate factor in determining rates. The governing committee shall develop a fair and reasonable methodology to ensure the smooth transition from calendar year based assessments to policy year based assessments and to ensure that no medical malpractice insurer has been advantaged by the use of such calendar year assessment formula.

SECTION 15. Said section 10 of said chapter 330 is hereby further amended by adding the following paragraph:-

There shall be no liability on the part of, and no cause of action of any nature shall arise against a member of the governing committee or any other committee of the medical malpractice reinsurance plan or any officer, employee or agent thereof for any act or omission resulting in damage or injury to another, if such person was acting in good faith and within the scope of his official functions and duties, unless such damage or injury was caused by willful or wanton conduct.

Approved October 31, 1998.

**Chapter 373. AN ACT AUTHORIZING THE TOWN OF WESTBOROUGH TO
ISSUE TWO ADDITIONAL LICENSES FOR THE SALE OF ALL
ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the town of Westborough may issue to Mandarin Westborough, Inc. a license to sell all alcoholic beverages to be drunk on the premises at 57 East Main street in said town under the provisions of section 12 of said chapter 138. Such license shall be subject to all the provisions of said chapter 138 except for said section 17; provided, however, that the licensing authority shall not approve the transfer of such license to any other location. Upon issuance of such license, Mandarin Westborough, Inc. shall return to said town the wine and malt beverage license it presently holds.

SECTION 2. Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the town of Westborough may issue to Clambo, Inc. a license to sell all alcoholic beverages to be drunk on the premises at 153 Turnpike road in said town under the provisions of section 12 of said chapter 138. Such license shall be subject to all the provisions of said chapter 138 except for said section 17; provided, however, that the licensing authority shall not approve the transfer of such license to any other location. Upon issuance of such license, Clambo, Inc. shall return to said town the wine and malt beverage license it presently holds.

Approved October 31, 1998.

**Chapter 374. AN ACT PROVIDING PROTECTION FOR CERTAIN RETIREMENT
ACCOUNTS.**

Be it enacted, etc., as follows:

SECTION 1. Chapter 235 of the General Laws is hereby amended by striking out section 34A, as appearing in the 1996 Official Edition, and inserting in place thereof the following section:-

Section 34A. The right or interest of any person in an annuity, pension, profit sharing or other retirement plan subject to the federal Employee Retirement Income Security Act of 1974, in any plan maintained by one or more self-employed individuals as a Keogh Plan, so-called, in any plan maintained by a corporation or other business organization pursuant to section 401(a) of the Internal Revenue Code but not subject to the federal Employee Retirement Income Security Act of 1974, or in any Simplified Employee Plan, annuity plan to which the provisions of section 403(b) of the Internal Revenue Code apply or Individual Retirement Account or Annuity maintained by an individual, or in any annuity or similar contract distributed from or purchased with assets distributed from any of the foregoing, shall be exempt from the operation of any law relating to insolvency and shall not be attached or

taken on execution or other process to satisfy any debt or liability of such person, except as may be necessary to satisfy (i) an order of a court of competent jurisdiction concerning divorce, separate maintenance or child support or (ii), in the event of the conviction of such person of a crime, an order of a court requiring such person to satisfy a monetary penalty or make restitution to the victim of such crime. The exemption in this section for plans maintained by an individual, whether or not self-employed, shall not apply to sums deposited, determined without regard to deposits pursuant to a rollover or transfer except to the extent protection under this section would be limited in the absence of a rollover or transfer, in said plans during the five year period preceding the individual's declaration of bankruptcy or entry of judgment in excess of 7 per cent of the total income of such individual for such period.

SECTION 2. Chapter 246 of the General Laws is hereby amended by striking out section 28, as so appearing, and inserting in place thereof the following section:-

Section 28. If wages for personal labor or personal services of a defendant are attached for a debt or claim, an amount not exceeding \$125 out of the wages then due to the defendant for labor performed or services rendered during each week for which such wages were earned but not paid shall be reserved in the hands of the trustee and shall be exempt from such attachment. Except as otherwise permitted by law, amounts held by a trustee for a defendant in a pension shall be reserved in the hands of the trustee and shall be exempt from attachment. For the purpose of this section, the word "pension" shall mean any annuity, pension, profit sharing or other retirement plan subject to the federal Employee Retirement Income Security Act of 1974, any plan maintained by one or more self-employed individuals as a Keogh Plan, so-called, any plan maintained by a corporation or other business organization pursuant to section 401(a) of the Internal Revenue Code but not subject to the federal Employee Retirement Income Security Act of 1974, any Simplified Employee Plan, annuity plan to which the provisions of section 403(b) of the Internal Revenue Code apply or an Individual Retirement Account or Annuity maintained by an individual, or any annuity or similar contract distributed from or purchased with assets distributed from any of the foregoing; provided, however, that this definition shall not apply to sums deposited, determined without regard to deposits pursuant to a rollover or transfer except to the extent protection under this section would have been limited in the absence of a rollover or transfer, in any plan maintained by an individual, whether or not self-employed, during the five year period preceding the individual's declaration of bankruptcy or entry of judgment in excess of 7 per cent of the total income of such individual for such period. The amount reserved under this section shall be paid by the trustee to the defendant in the same manner and at the same time as such amount would have been paid if no such attachment had been made. Every writ of attachment shall contain a statement of the amount exempted from attachment under this section and also a direction to the trustee to pay over the exempted amount as provided in this section.

The provisions of this section shall not apply in any proceeding to attach wages or a pension to satisfy a divorce, separate maintenance or child support order of a court of com-

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petent jurisdiction, and in such actions, including an action for trustee process to enforce a support order under section 36A of chapter 208, the provisions of federal law limiting the amounts which may be trusted, assigned or attached in order to satisfy an alimony, maintenance or child support order shall apply in lieu of said provisions of this section.

Approved October 31, 1998.

Chapter 375. AN ACT PROVIDING FOR THE ESTABLISHMENT OF A BOARD OF PUBLIC WORKS IN THE TOWN OF HOPKINTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any special or general law to the contrary, there is hereby established in the town of Hopkinton a department of public works, hereinafter called "the department", which shall be under the supervision and control of the board of selectmen, hereinafter called the "board".

SECTION 2. Commencing on January 1, 1999, the department shall have all the powers and duties now or from time to time vested by general law or special act in the following boards, departments and offices: highway department, including highway superintendent; sewer department and water department, including the board of water and sewer commissioners; parks and recreation department, maintenance only; cemetery department, maintenance only; insect pest control superintendent; tree warden; recycling and refuse collection; and maintenance of the town buildings and grounds, including maintenance and snow removal of driveways and parking areas of school buildings, but excepting maintenance of the remainder of the properties under the control of the school department, and said boards, departments and offices shall, except to the extent set forth herein, thereupon be abolished. No contracts or liabilities then in force shall be affected by such abolishment, but the department shall in all respects be the lawful successor of the boards, departments and offices so abolished.

SECTION 3. The department shall have such additional powers with regard to the furnishing of engineering services, the collection and disposal of garbage and refuse, and the performance of such duties of any other boards, departments and offices of the town as may be reasonably related to the duties and responsibilities of a department of public works, as the town may, from time to time, by by-law or by vote of the town meeting provide, any other provisions of law to the contrary notwithstanding.

SECTION 4. The board shall have the exclusive authority to establish rates, fees and other charges for such services, programs and other public benefits as may have come within the jurisdictions of any of the boards, departments or offices which have been abolished by this act, and shall appoint and, subject to appropriation, fix the compensation of a director of public works, who shall exercise and perform, under the supervisions and direction of the board, such of the powers, rights and duties which have been transferred to the department

hereunder as it may from time to time designate. The director shall be responsible for the efficient exercise and performance of such powers, rights and duties and shall hold office subject to the will of the board. The director shall be a registered professional engineer, in the discipline of civil engineering, in the commonwealth or be able to obtain the registered professional engineer certificate within a reasonable time as determined by the board of selectmen, and shall be specially fitted by education, training and experience to perform the duties of said office, and may or may not be a resident of the town. Except as otherwise set forth herein, during the director's tenure, he shall hold no elective or other appointive office, nor shall he be engaged in any other business or occupation. The director shall, subject to the approval of the board, appoint such assistants, agents and employees as the exercise and performance of his powers, rights and duties may require. The director shall keep full and complete records of the doings of his office and render to the board as often as it may require a full report of all operations under his control during the period reporting upon.

SECTION 5. The director shall establish within the department the following functions: highway; water; sewer; cemetery; maintenance; park maintenance; forestry; solid waste disposal; recycling; tree; pest control and building and ground maintenance.

SECTION 6. All persons employed by or under the supervision of the offices, boards and commissions abolished by this act shall upon January 1, 1999, be transferred to the department. All such transfers of employees shall be made without loss of pay, and without change of rating, seniority, retirement or pension rights, or any other privileges under any provision of law or by-law.

SECTION 7. All equipment owned by the town of Hopkinton and under the control of the offices, boards or commissions abolished by this act shall on January 1, 1999, be transferred to and be under the control and direction of the department.

SECTION 8. The parks and recreation commission shall continue to have responsibility for the development and acquisition of new parks and park land, the expansion or upgrade of existing parks and park land, and the scheduling and operation of recreation programs.

SECTION 9. The cemetery commissioners shall continue to determine eligibility for and the rates to be charged for burial in the town's cemeteries, and to supervise the investment and expenditure of the cemetery funds now existing or hereafter paid for the purchase of cemetery lots and maintenance agreements.

SECTION 10. The board shall appoint the director for a term of from one to three years commencing on July 1 and expiring on June 30; provided, however, that the initial term of such director shall commence on the date of appointment by the board and terminate on the next following June 30. The board may remove the director when in its judgment the public interest so requires. The director shall not be subject to the provisions of section 9A of chapter 30 or chapter 31 of the General Laws.

SECTION 11. The director shall appoint annually a tree warden who shall possess all of the duties of tree warden as specified in the General Laws. The tree warden shall be a resident of the town of Hopkinton. The director may appoint himself as the tree warden.

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SECTION 12. This act shall take effect upon its passage.

Approved October 31, 1998.

Chapter 376. AN ACT AUTHORIZING THE TOWN OF NORWOOD TO ISSUE THREE ADDITIONAL LICENSES FOR THE SALE OF WINES AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the town of Norwood may issue three additional licenses for the sale of wine and malt beverages to be drunk on the premises under the provisions of section 12 of said chapter 138 to restaurants located in the central business district of said town as established by zoning by-laws from time to time. Such licenses shall be subject to all of the provisions of said chapter 138 except said section 17.

Approved November 5, 1998.

Chapter 377. AN ACT RELATIVE TO THE UNIFORM TRANSFER ON DEATH SECURITY REGISTRATION ACT.

Be it enacted, etc., as follows:

The General Laws are hereby amended by inserting after chapter 201D the following chapter:-

CHAPTER 201E. UNIFORM TRANSFER ON DEATH SECURITY REGISTRATION ACT.

PART 1. SHORT TITLE, DEFINITIONS, APPLICABILITY.

Section 101. (1) This chapter shall be known as and may be cited as the Uniform Transfer on Death Security Registration Act.

(2) This chapter shall be liberally construed and applied to promote its underlying purposes and policy and to make uniform the laws with respect to the subject of this chapter among states enacting it.

(3) Unless displaced by the particular provisions of this chapter, the principles of law and equity supplement its provisions.

Section 102. As used in this chapter the following words shall unless the context otherwise requires have the following meanings:-

"Beneficiary form", a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

"Devisee", a person designated in a will to receive a disposition of real or personal property.

"Heir", a person, including a surviving spouse, who is entitled under the statutes of intestate succession to the property of a decedent.

"Person", an individual, a corporation, an organization, or other legal entity.

"Personal representative", an executor, administrator, successor personal representative, special administrator, or a person who performs substantially the same function.

"Property", real and personal property or any interest therein and means anything that may be the subject of ownership.

"Register", to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

"Registering entity", a person who originates or transfers a security title by registration, and includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

"Security", the same meaning as provided in clause (k) of section 401 of chapter 110A and includes a security account.

"Security account", (i) a reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death, or (ii) a cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

"State", any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the authority of the United States.

Section 103. Only individuals whose registration of a security shows sole ownership by one individual or multiple ownership by two or more with rights of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants with rights of survivorship, or tenants by the entireties, and not as tenants in common.

Section 104. A security may be registered in beneficiary form if the form is authorized by this chapter or a similar law of the state of organization of the issuer or registering entity, the location of the registering entity's principal office, the office of its transfer agent or its office making the registration, or by this chapter or a similar law of the state listed as the owner's address at the time of registration. A registration governed by the law of a jurisdiction in which this chapter or similar law is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law.

Section 105. A security, whether evidenced by certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners.

Section 106. Registration in beneficiary form may be shown by the words "transfer on death" or the abbreviation "TOD", or by the words "pay on death" or the abbreviation "POD", after the name of the registered owner and before the name of a beneficiary.

Section 107. The designation of a transfer on death beneficiary on a registration in beneficiary form shall have no effect on ownership until the owner's death. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all surviving owners without the consent of the beneficiary.

PART 2. SURVIVOR RIGHTS.

Section 201. On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners. On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners. Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. If no beneficiary survives the death of all owners, and if no anti-lapse statute applies, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.

PART 3. REGISTRATION IN BENEFICIARY FORM, TRANSFER ON DEATH.

Section 301. (a) A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by the provisions of this chapter.

(b) By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on death of the deceased owner as provided in this chapter.

(c) A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if it registers a transfer of the security in accordance with section 201 and does so in good faith reliance (i) on the registration, (ii) on the provisions of this chapter, and (iii) on information provided to it by affidavit of the personal representative of the deceased owner, or by the surviving beneficiary or by the surviving beneficiary's representatives, or other information available to the registering entity. The protections of this chapter shall not extend to a reregistration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity shall affect its right to protection under this chapter.

(d) The protection provided by this chapter to the registering entity of a security shall not affect the rights of beneficiaries in disputes between themselves and other claimants to ownership of the security transferred or its value or proceeds.

Section 302. (a) A transfer on death resulting from a registration in beneficiary form shall be effective by reason of the contract regarding the registration between the owner and

the registering entity and by reason of this chapter and is therefore not testamentary.

(b) This chapter shall not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of the commonwealth.

PART 4. TERMS, CONDITIONS AND FORMS, RIGHTS OF CREDITORS.

Section 401. (a) A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests (i) for registrations in beneficiary form, and (ii) for implementation of registrations in beneficiary form, including requests for cancellation of previously registered transfer on death beneficiary designations and requests for reregistration to effect a change of beneficiary. The terms and conditions so established may provide for proving death, avoiding or resolving any problems concerning fractional shares, designating primary and contingent beneficiaries, and substituting a named beneficiary's descendants to take in the place of the named beneficiary in the event of the beneficiary's death. Substitution may be indicated by appending to the name of the primary beneficiary the letters LDPS, standing for "lineal descendants per stirpes". This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to so survive, the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate. Other forms of identifying beneficiaries who are to take on one or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

(b) The following are examples of registrations in beneficiary form which a registering entity may authorize:

- (1) Sole owner-sole beneficiary: John S. Brown TOD, or POD, John S. Brown Jr.
- (2) Multiple owners-sole beneficiary: John S. Brown Mary B. Brown JT TEN TOD John S. Brown Jr.
- (3) Multiple owners-primary and secondary or substituted beneficiaries: John S. Brown Mary B. Brown JT TEN TOD John S. Brown Jr. SUB BENE Peter Q. Brown or John S. Brown Mary B. Brown JT TEN TOD John S. Brown Jr. LDPS.

Section 402. (a) If other assets of the estate are insufficient, a transfer resulting from registration under this chapter shall not be effective against the estate of a deceased party to the extent needed to pay claims against the estate and statutory allowances to the surviving spouse and children.

(b) A surviving party or beneficiary who receives payment of a security registered in accordance with this chapter shall be liable to account to the personal representative of the decedent for a proportionate share of the amount received to which the decedent, immediately before death, was beneficially entitled to the extent necessary to discharge the claims and allowances described in subsection (a) remaining unpaid after application of the decedent's estate. A proceeding to assert the liability may not be commenced unless the personal representative has received a written demand by the surviving spouse, a creditor, a child, or

a person acting for a child of the decedent. The proceeding shall be commenced within one year after death of the decedent. Sums recovered by the personal representative shall be administered as part of the decedent's estate.

Approved November 5, 1998.

Chapter 378. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF AYER.

Be it enacted, etc., as follows:

SECTION 1. Any holder of an elected town office may be recalled therefrom by the qualified voters of the town of Ayer as herein provided.

SECTION 2. Any 50 qualified voters of the town of Ayer may initiate a recall petition by filing with the town clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The town clerk shall thereon deliver to said voters making the affidavit copies of the petition blanks demanding such recall, copies of such printed form of which shall be kept available. Such blanks shall be issued by the town clerk, with his signature and official seal attached thereto. Such blanks shall be dated, shall be addressed to the board of selectmen of said town and shall contain the names of all the persons to whom they are issued, the name of the person whose recall is sought, the grounds of recall as stated in the affidavit and shall demand the election of a successor to the said office. A copy of the petition shall be entered in the record book to be kept in the office of the town clerk.

The recall petition shall be returned and filed with the town clerk within 14 days after filing of the affidavit and shall have been signed by at least 25 per cent of the qualified voters of the town, who shall add to their signatures the street and number, if any, of their residences. The town clerk shall within one working day of receipt submit the petition to the registrars of voters in the town and the registrars shall forthwith certify thereon the number of signatures with the names of qualified voters of the town.

SECTION 3. If the petition shall be found and certified by the town clerk to be sufficient, he shall submit the same with his certificate to the board of selectmen without delay and said board shall forthwith give written notice of the receipt of the certificate to the official sought to be recalled and shall, if the officer does not resign in five days thereafter, order an election to be held on a date fixed by them not less than 60 days and not more than 70 days after the date of the town clerk's certificate that a sufficient petition has been filed; provided, however, that if any other town election is to occur within 90 days after the date of the certificate, said board shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this act.

SECTION 4. Any officer sought to be removed may be a candidate to succeed him-

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self and, unless he requests otherwise in writing, the town clerk shall place his name on the warrant without nomination. The nomination of the other candidates, the publication of the warrant for the removal election and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided by this act.

SECTION 5. The incumbent shall continue to perform the duties of his office until the recall election. If then reelected, he shall continue in the office for the remainder of his unexpired term, subject to recall as before, except as provided in this act. If not reelected in the recall election, he shall be deemed removed from office upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereon be deemed removed and the office vacant.

SECTION 6. Ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall (name of the officer)

Against the recall of (name of the officer)

Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (x) may vote for either of said propositions. Under the proposition shall appear the word "candidates", and the directions to voters required by section 42 of chapter 54 of the General Laws, beneath this the names of candidates nominated as hereinbefore provided. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected; provided, however, that at least 20 per cent of those entitled to vote shall have voted. If a majority of votes on the question is negative, the ballot for candidates need not be counted.

SECTION 7. No recall petition shall be filed against an officer within six months after he takes office, or, in the case of an officer subject to recall election and not recalled thereby, until at least six months after the election at which his recall was submitted to the voters.

Approved November 6, 1998.

Chapter 379. AN ACT DIRECTING THE CITY OF BOSTON TO GRANT A PENSION TO CARL W. JOHNSON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary and in order to promote the public good, the Boston retirement board shall retire Carl W. Johnson, a firefighter in the city of Boston who, as the result of injuries sustained in the performance of his duties, is totally and permanently incapacitated from further service as a firefighter.

The annual amount of pension payable to Carl W. Johnson shall be fixed in an

amount equal to the regular rate of compensation which he would have been paid had he continued in service as a firefighter in said city at the grade held by him at the time of his retirement. Such retirement shall become effective as of the date following the last day on which he is entitled to receive regular compensation.

Upon the retirement of Carl W. Johnson, the Boston retirement board shall forthwith pay to him all amounts standing to his credit in the annuity savings fund of the retirement system of said city.

SECTION 2. The provisions of section 100 of chapter 41 of the General Laws shall continue to apply to Carl W. Johnson relative to his indemnification by the city of Boston for any hospital, medical and related expenses which may be incurred by him after the date of his retirement as a result of the aforementioned incapacity.

SECTION 3. Upon the death of Carl W. Johnson, if his spouse, Mary, survives him, and as long as she remains unmarried, the city shall pay her an annual annuity equal to the sum of three-fourths of the amount of the pension payable to him at the time of his death and \$450 for each child of Carl W. Johnson for such time as each such child is either under 18 years of age or totally physically or mentally incapacitated from working. If such spouse remarries, the city shall pay to her, in lieu of the aforesaid annuity, an annual annuity of \$520 for each child of Carl W. Johnson for such time as each such child is residing with her and is either under 18 years of age or totally physically or mentally incapacitated from working.

SECTION 4. This act shall take effect upon its passage.

Approved November 6, 1998.

**Chapter 380. AN ACT DESIGNATING THE CITY OF WORCESTER AS THE
BIRTHPLACE OF ROBERT GODDARD, THE FATHER OF
MODERN ROCKETRY AND CONGRATULATING THE AUBURN
ROCKETS.**

Be it enacted, etc., as follows:

SECTION 1. The department of highways shall erect and maintain a suitable marker at Interstate 290 at the Shrewsbury/Worcester line and at the Auburn/Worcester line designating the city of Worcester as the birthplace of Dr. Robert Goddard, the father of modern rocketry. Said marker shall be in compliance with the standards of said department.

SECTION 2. The department of highways shall erect and maintain for one year a suitable marker in the town of Auburn along Interstate 290 congratulating the Auburn Rockets varsity baseball team for their winning of the 1998 state championship. Said marker shall be in compliance with the standards of said department.

SECTION 3. This act shall take effect upon its passage.

Approved November 6, 1998.

Chapter 381. AN ACT FURTHER REGULATING THE RENEWAL OF LICENSES OF ELEVATOR MECHANICS.

Be it enacted, etc., as follows:

Subdivision (1) of section 71C of chapter 143 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following four paragraphs:-

The renewal of all licenses granted under the provisions of this section shall be conditioned upon the submission of a certificate of completion of a course designed to ensure the continuing education of licensees on new and existing provisions of the regulations of the board of elevator regulations. Such course shall consist of not less than eight hours of instruction which shall be attended and completed within the one year immediately preceding any such license renewal.

Such course shall be taught by instructors through continuing education providers which may include, but shall not be limited to, association seminars and labor training programs; provided, however, that all such continuing education providers shall be approved by the board of elevator regulations; and provided further, that all instructors shall be licensed in the commonwealth as elevator mechanics, employed or retained by such providers, approved by the board of elevator regulations and exempt from the requirements of the preceding paragraph with regard to his application for license renewal provided that such applicant was qualified as an instructor at any time during the one year immediately preceding the scheduled date for such renewal.

A licensee who is unable to complete the continuing education course required under this section prior to the expiration of his license due to a temporary disability may apply for a waiver from the board of elevator regulations on a form provided by said board which shall be signed under the pains and penalties of perjury and accompanied by a certified statement from a competent physician attesting to such temporary disability. Upon the termination of such temporary disability, such licensee shall submit to said board a certified statement from the same physician, if practicable, attesting to the termination of such temporary disability, at which time a waiver sticker, valid for 90 days, shall be issued to such licensee and affixed to his license.

Approved training providers shall keep uniform records of attendance of licensees following a format approved by the board of elevator regulations and such records shall be available for inspection by said board at its request. Approved training providers shall be responsible for the security of all attendance records and certificates of completion; provided, however, that falsifying or knowingly allowing another to falsify such attendance records or certificates of completion shall constitute grounds for suspension or revocation of the approval required under this section.

Approved November 12, 1998.

Chapter 382. AN ACT ALLOWING CERTAIN STRUCTURES TO BE EXEMPTED FROM CERTAIN HARBOR LINES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for certain structures to be exempted from certain harbor lines, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of sections 14 and 34 of chapter 91 of the General Laws or any other general or special law to the contrary, the department of environmental protection is hereby authorized to grant, deny or condition a license to the Rowes Wharf Condominium Association to place, maintain and repair two floating barges, to be known as Southern Floating Dock and Northern Floating Dock, secured by piles, to be located in whole or in part beyond the harbor line in the vicinity of Rowes Wharf and along the Atlantic Avenue waterfront, to the north of the existing Northern Avenue Bridge and to the west of the Northern Avenue Bridge abutment of the city of Boston in Boston Harbor, such harbor line having been established and authorized by certain laws, including section 1 of chapter 403 of the acts of 1939; provided, however, that no license issued by the department of environmental protection for the Southern Floating Dock or the Northern Floating Dock shall be for a term longer than five years; provided, further, that said Southern Floating Dock shall be restricted in size to a maximum of 21 feet wide and 200 feet long; provided, further, that said Northern Floating Dock shall be restricted in size to a maximum of 40 feet wide and 120 feet long, and shall be connected to the existing wharf by such other connecting docks as may be necessary; and provided, further, that nothing in this section shall be construed to exempt said project from compliance with all substantive and procedural requirements of said chapter 91 and the regulations promulgated pursuant thereto, other than the exception permitted herein from the harbor line requirements of sections 14 and 34 of said chapter 91.

SECTION 2. The approximate location of the exception to the harbor lines hereby established is shown on a plan to be titled, "The Establishment of Exceptions to the Harbor Lines at Rowes Wharf" and bearing the effective date of this act. The final plan showing the specific location of said project shall be incorporated in the waterways license to be issued subsequent to the effective date hereof. Both plans shall be prepared for the department of environmental protection, maintained by and in the department of environmental protection and made available for public inspection.

Approved November 12, 1998.

Chapter 383. AN ACT RELATIVE TO THE GROUP INSURANCE PROGRAM OF THE TOWN OF STERLING.

Be it enacted, etc., as follows:

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If, pursuant to paragraph (d) of section 2 of chapter 32B of the General Laws, the board of selectmen of the town of Sterling allows elected town officials whose duties require less than 20 hours work per week as said board may determine to participate in said town's group insurance program, such officials shall pay 100 per cent of the premiums.

Approved November 12, 1998.

Chapter 384. AN ACT AUTHORIZING THE CITY OF PITTSFIELD TO LEASE A CERTAIN PARCEL OF COMMERCIAL LAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of sections 1 and 3 of chapter 40 of the General Laws, the city of Pittsfield may lease a certain parcel of commercial land for a term of 30 years for the development of the downtown area of said city. The leased premises are more particularly shown on a plan of land entitled "Exhibit A Proposed Lease Area of City of Pittsfield Former England Brothers Parcel & Adjacent Parking Area" drawn by the city engineer of said city and dated June 8, 1998, which is on file with the department of public works of said city.

SECTION 2. This act shall take effect upon its passage.

Approved November 12, 1998.

Chapter 385. AN ACT EXEMPTING THE POSITION OF SCHOOL NURSE IN THE TOWN OF FRANKLIN FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The position of school nurse in the public schools of the town of Franklin shall be exempt from the provisions of chapter 31 of the General Laws.

SECTION 2. The provisions of section 1 shall not impair the civil service status of any person holding the position of school nurse on September 1, 1997.

Approved November 12, 1998.

Chapter 386. AN ACT MAKING AN APPROPRIATION TO FUND A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE MIDDLESEX SHERIFF'S OFFICE AND THE MIDDLESEX SHERIFF'S SUPERIOR OFFICERS ASSOCIATION.

Be it enacted, etc., as follows:

SECTION 1. To provide for certain collective bargaining costs, including the costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Middlesex sheriff's office and the Middlesex Sheriff's Superior Officers Association, the sum set forth in section 2 is hereby appropriated from the Collective Bargaining Reserve Fund, subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter 194 of the acts of 1998.

SECTION 2.
EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Reserves.

1599-3879 For a reserve to meet the costs for fiscal years 1998 and 1999 of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Middlesex sheriff's office and the Middlesex Sheriff's Superior Officers Association and to meet the costs for fiscal years 1998 and 1999 of salary adjustments and other economic benefits necessary to provide equal salary adjustments and benefits to employees employed in "confidential" positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such salary adjustments and benefits for such "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which otherwise would cover said positions; provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1999 such amounts as may be necessary to meet such costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of such transfers \$461,000

SECTION 3. This act shall take effect upon its passage.
Approved November 12, 1998.

Chapter 387. AN ACT RELATIVE TO THE GROTON COUNTRY CLUB AUTHORITY.

Be it enacted, etc., as follows:

SECTION 1. The first sentence of section 3 of chapter 533 of the acts of 1991, as appearing in section 2 of chapter 115 of the acts of 1995, is hereby amended by striking out the word "seven" and inserting in place thereof the following word:- five.

SECTION 2. Section 4 of said chapter 533, as amended by section 3 of said chapter 115, is hereby further amended by striking out the second sentence and inserting in place thereof the following two sentences:- The town treasurer shall serve as treasurer of the authority. Three members of the authority, shall constitute a quorum and an affirmative vote of three members shall be necessary for any action taken by the authority, except that a smaller number may adjourn any meeting to a specified time and place.

SECTION 3. This act shall take effect upon its passage.

Approved November 12, 1998.

Chapter 388. AN ACT RELATIVE TO MEETINGS OF THE BOARD OF REGISTRATION OF COSMETOLOGISTS.

Be it enacted, etc., as follows:

Section 43 of chapter 13 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The board shall hold regular meetings each month in each year, and such additional meetings at such times and places as it deems necessary.

Approved November 13, 1998.

Chapter 389. AN ACT AUTHORIZING THE STATE RETIREMENT BOARD TO GRANT CREDITABLE SERVICE TO CELESTE LOUGHMAN.

Be it enacted, etc., as follows:

Notwithstanding the provisions of chapter 32 of the General Laws or any other general or special law, rule or regulation to the contrary, the state board of retirement is hereby authorized and directed to credit Celeste Loughman of the city of Westfield with the service she rendered in 1993 while she was on paid leave for the fall semester of the 1993-1994 academic year participating in the Fulbright scholarship program for the purpose of determining her superannuation retirement allowance pursuant to the provisions of paragraph (a) of subdivision (2) of section 5 of said chapter 32. Eligibility for said creditable service shall be conditioned upon payment into the Annuity Savings Fund of the state employees' retirement

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system of an amount equal to the contributions she would have otherwise paid into the retirement system for said period of service based upon the salary she was receiving prior to the commencement of her leave of absence together with regular interest thereon. Such payment shall be made in one sum or installments as the state board of retirement shall prescribe.

If Celeste Loughman is granted a superannuation retirement allowance on or before the effective date of this act, the state board of retirement shall recalculate said retirement allowance based upon the provisions of this act.

Approved November 17, 1998.

Chapter 390. AN ACT ACCEPTING THE DEVISE OF CERTAIN LAND IN GEORGETOWN AS PART OF THE GEORGETOWN-ROWLEY STATE FOREST.

Be it enacted, etc., as follows:

The department of environmental management acting on behalf of the commonwealth and the executive office of administration and finance may accept as part of the Georgetown-Rowley State Forest the devise of a certain parcel of land described in the will of Baker Adams which is on file in the Essex county probate court as Docket No. 97P 2629-EP1. Said parcel shall be known as the Baker-Adams Memorial Parcel of the Georgetown-Rowley State Forest, in memory of Cornelius Gould Baker, Lavinia Vine Bartlett Baker, Clarence Cushman Adams and Cornelia Vine Baker Adams. Said department of environmental management shall erect suitable markers bearing thereon said designation in compliance with the standards of said department.

Emergency Letter: November 24, 1998 @ 4:19 P.M.

Approved November 17, 1998.

Chapter 391. AN ACT RELATIVE TO THE ROOM OCCUPANCY EXCISE OF THE TOWN OF PROVINCETOWN.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, 19.125 per cent of the excise collected by the town of Provincetown under section 3A of chapter 64G of the General Laws shall be credited to the wastewater enterprise fund of said town without further appropriation.

Approved November 25, 1998.

Chapter 392. AN ACT RELATIVE TO EXTENDING THE REPORTING DATE FOR THE SPECIAL COMMISSION ESTABLISHED TO MAKE AN INVESTIGATION AND STUDY OF LOW INCOME HOUSING IN THE CITY OF LOWELL.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to extend the November 15, 1998 reporting date for the special commission established to make an investigation and study of low income housing in the city of Lowell, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Section 18 of chapter 257 of the acts of 1998 is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-
Said commission shall report to the general court the results of its investigation and study and its recommendations if any, together with drafts of legislation necessary to carry said recommendations into effect, by filing the same with the clerk of the house on or before the last Wednesday in January, 1999.

Approved November 25, 1998.

Chapter 393. AN ACT RELATIVE TO THE RENEWAL OF REAL ESTATE BROKERS LICENSES.

Be it enacted, etc., as follows:

Section 87XX of chapter 112 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 16 and 17, the words "the application for renewal is made not later than one year from the expiration of the license, and".

Approved November 25, 1998.

Chapter 394. AN ACT MAKING CERTAIN CHANGES IN THE CAMPAIGN FINANCE LAWS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to amend the campaign finance laws forthwith before the effective date of the initiative law enacting amendments to chapters 55 and 55A of the General Laws, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The definition of "Contribution" in section 1 of chapter 55 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 63 to 68, inclusive, the words "; provided, further, that any transfer, payment or advance or any other thing of value from the national committee of a political party to the state committee of a political party, to be used for administrative, overhead, or party building activities, but not including any direct contributions or services to candidates shall not be considered to be a contribution".

SECTION 2. Section 7 of said chapter 55, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

No candidate or candidate's committee shall receive a transfer of funds or assets from any federal political committee. No candidate or candidate's committee shall make an expenditure of, or transfer, funds or assets that were transferred on or after November 25, 1998 from a federal political committee. A candidate's committee may, however, coordinate arrangements, with a federal committee that refunds contributions pursuant to federal law, for a solicitation of the same contributors by the candidate's committee. The candidate's committee shall pay the full cost of any such solicitation.

SECTION 3. Section 7 of said chapter 55, as so appearing, is hereby amended by striking out, in line 27, the word "A" and inserting in place thereof the following words:- Except as provided in subsection (c) of section 19, a.

SECTION 4. Section 18 of said chapter 55, as so appearing, is hereby amended by inserting after the word "election", in line 10, the following words:- or for use in a city or town at a state election.

SECTION 5. Said section 18 of said chapter 55, as so appearing, is hereby further amended by inserting after the word "election", in line 75, the following words:- or for use on ballots in a city or town at a state election.

SECTION 6. Said section 18 of said chapter 55, as so appearing, is hereby further amended by striking out, in lines 82 and 83, the words "(4) the fifth day of each month until all declared liabilities of such committee have been discharged" and inserting in place thereof the following words:- (4) the twentieth day of November following such election complete as of the fifteenth day of the month; and (5) the twentieth day of January of each year complete as of the thirty-first day of December of the prior year until all declared liabilities of such committee have been discharged.

SECTION 7. Section 19 of said chapter 55, as so appearing, is hereby amended by striking out, in line 55, the word "All" and inserting in place thereof the following words:- Except as otherwise provided in this section, all.

SECTION 8. Subsection (c) of said section 19 of said chapter 55, as so appearing, is hereby amended by adding the following paragraph:-

A candidate or treasurer of a political committee required to designate a depository may make expenditures by wire transfer or other electronic means for broadcast, cablecast or other media services and for payroll services made in connection with employee deductions and withholdings. A candidate or treasurer making an expenditure by wire or other

electronic transfer shall file a report with the director within three business days of any such expenditure. Such report shall include a statement of the reason the expenditure was made by wire transfer or other electronic means and the other information required by this section. In addition, for any expenditure made for media services, such report shall contain thereon for signature by the person providing such media services, a certificate prepared by the director similar to the certificate required by section 7.

SECTION 9. Said section 19 of said chapter 55, as so appearing, is hereby further amended by striking out, in lines 96 to 99, inclusive, the words "and has received deposits greater than two hundred and fifty dollars or made withdrawals greater than two hundred and fifty dollars during the preceding month but in any case no less than semiannually on the fifth day of January and July while such account is in existence".

SECTION 10. Said chapter 55 is hereby further amended by striking out section 22, as so appearing, and inserting in place thereof the following section:-

Section 22. The treasurer of a corporation, association, organization or other group of persons, other than a political committee organized under section 5, which has given, paid, expended or contributed, or promised to give, pay, expend or contribute, any money or other thing of value in order to influence or affect the vote on any question submitted to the voters shall file reports setting forth the amount or value of every gift, payment, expenditure or contribution or promise to give, pay, expend or contribute, together with the date, purpose and full name and address of the person to whom it was made.

If the question appears on ballots at a state election, such report shall be filed with the director as follows: (1) the sixtieth day prior to the election; (2) on or before the fifth and twentieth day of each month complete as of the preceding first and fifteenth day of the month, until the election; (3) the twentieth day of November following such election, complete as of the fifteenth day of the month; and (4) the twentieth day of January of each year, complete as of the thirty-first day of December of the prior year, until all declared liabilities of such corporation, association, organization or other group of persons have been discharged.

If the question appears on ballots at a city or town election or appears on ballots for use in a city or town at a state election, such report shall be filed with the city or town clerk as follows: (1) the eighth day preceding a preliminary or primary, including a caucus, the eighth day preceding a city or town election and, if a city election, as a final report, the twentieth day of January in the following year, complete as of the thirty-first day of December of the prior year and, if a town election, as a final report, the thirtieth day following such election; (2) the eighth day preceding a special primary, including a caucus, the eighth day preceding a special election and, as a final report, the thirtieth day following a special election; and (3) the twentieth day of January of each year, complete as of the thirty-first day of December of the prior year, until all declared liabilities of such corporation, association, organization or other group of persons have been discharged.

Except as otherwise provided, the end of the reporting period of each report required to be filed under the provisions of this section shall be as of the tenth day preceding the last

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day for filing. The beginning of the reporting period for each report subsequent to the initial report shall be the day following the end of the reporting period of the last report filed.

Any corporation, association, organization or other group of persons, other than a political committee organized under said section 5, violating any provision of this section shall be punished by a fine of not more than \$50,000 and any officer, director or agent of any such corporation, association, organization or other group of persons violating any provision hereof or authorizing any such violation or any person who violates or in any way knowingly aids or abets the violation of any provision hereof shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than one year or by both such fine and imprisonment.

SECTION 11. Section 25 of said chapter 55, as so appearing, is hereby amended by striking out, in line 9, the word "tenth" and inserting in place thereof the following word:- twentieth.

Approved November 25, 1998.

Chapter 395. AN ACT THE MASSACHUSETTS CLEAN ELECTIONS LAW.

Be it enacted by the People, and by their authority:

SECTION 1. Findings and Declarations.

(a) The people of the Commonwealth of Massachusetts find and declare that the current way of paying for campaigns undermines democracy in the Commonwealth in the following principal ways:

(1) It threatens the democratic principle of "one person, one vote" by allowing large contributors to have a disproportionate and therefore deleterious influence on the political process, and diminishes the rights of citizens of all backgrounds to equal and meaningful participation in the democratic process.

(2) It drives up the cost of election campaigns, making it difficult for qualified candidates without personal fortunes or access to large contributions to mount competitive campaigns.

(3) It weakens the ability of voters and candidates to hear and to be heard in the political process, and it undermines the core democratic ideal of open and robust debate on issues of public concern.

(4) It fuels the public perception of corruption and undermines public confidence in democratic institutions and process, and creates a danger of corruption by encouraging elected officials and other candidates to take money from private interests that are directly affected by government actions.

(5) It diminishes the accountability of elected officials to their constituents by encouraging them to be disproportionately accountable to the major contributors who finance their election campaigns.

(6) It disadvantages challengers, who are outspent by more than two-to-one on average by incumbents, discouraging average citizens from running for office and leading to less competitive elections.

(7) It burdens candidates with the incessant rigors of fundraising and thus decreases the time available to them to carry out their public responsibilities.

(b) The people of the Commonwealth of Massachusetts find and declare that providing a voluntary clean elections system for all primary and general elections would enhance democracy in Massachusetts in the following principal ways:

(1) It would affirm the principle of "one person, one vote", reduce the disproportionate and deleterious influence of large contributors, and restore the rights of citizens of all backgrounds to equal and meaningful participation in the democratic process.

(2) It would halt the escalating cost of elections.

(3) It would enable voters and candidates to hear and to be heard in the political process, and restore open and robust debate on issues of public concern.

(4) It would diminish the public perception of corruption, strengthen public confidence in democratic institutions and process, and eliminate the danger of corruption caused by the private financing of election campaigns.

(5) It would increase the accountability of elected officials to the constituents who elect them.

(6) It would create genuine opportunities for qualified residents of the Commonwealth to run for state office, and encourage more competitive elections.

(7) It would free candidates from the incessant rigors of raising money and allow them more time to carry out their official duties.

SECTION 2. Massachusetts Clean Elections Law.

Chapter 55A of the Massachusetts General Laws, as it appears in the 1996 Official Edition, is hereby amended by deleting the same and inserting the following new chapter in its place:

CHAPTER 55A. The Massachusetts Clean Elections Law.

Section 1. Definitions.

Unless a contrary intention clearly appears, the words and phrases used in this chapter shall have the following meanings:

"Allowable contribution", a monetary contribution made to a participant by an individual or political committee pursuant to section 9 during an election cycle. Total allowable contributions from any individual or political committee to a participant shall not exceed one hundred dollars in the aggregate per election cycle.

"Certified candidate", a participant who is certified by the director under section 5. Unless a contrary intention clearly appears, certified candidate shall refer to this candidate and this candidate's committee, as defined in section 1 of chapter 55.

"Clean election funds", the funds distributed from the Massachusetts Clean Elections Fund by the director to certified candidates pursuant to sections 7, 8 and 11.

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"Contribution", contribution as defined in section 1 of chapter 55, except that the use by a participant of the participant's home, car, computer, facsimile machine, telephone or similar such equipment shall not be considered a contribution.

"Declaration of intent", a form prescribed by the director and signed by a candidate and the candidate's campaign treasurer under the pains and penalties of perjury that states that the candidate has complied with and agrees to continue to comply with allowable and in-kind contribution and expenditure limits set forth in this chapter for participants, and will comply with all other requirements set forth in this chapter and in regulations promulgated by the director pursuant to this chapter.

"Director", the director of campaign and political finance as described in section 3 of chapter 55.

"Election cycle", as applied to a candidate for a particular state office shall be the period beginning on the thirty-first day following a regular state election for that office and ending on the thirtieth day following the next state election for that office, inclusive.

"Election year", as applied to a candidate for a particular state office shall be the calendar year during which a regular state election for that office is held.

"Expenditure", an expenditure as defined in section 1 of chapter 55, except that expenditures shall not include in-kind contributions.

"General election campaign period", the period beginning the day following the primary election and ending on the day of the general election, inclusive.

"In-kind contribution", any contribution other than a monetary contribution.

"Massachusetts Clean Elections Fund", the fund established under section 42 of chapter 10 and from which funds are distributed to certified candidates.

"Massachusetts Clean Elections", the optional system of contribution and expenditure limits and public campaign financing established under this chapter.

"Monetary contribution", any contribution which is monetary in nature, including without limitation, cash, checks, loans, advances, money orders, or postage.

"Non-participating candidate", a candidate who has not been certified pursuant to section 5, or who has been decertified pursuant to section 16. Unless a contrary intention clearly appears, non-participating candidate shall refer to this candidate and this candidate's committee, as defined in section 1 of chapter 55.

"Obligated expenditure", an expenditure that a candidate has legally obligated to make or otherwise agreed to make, but has not yet made.

"Participant", a candidate who has voluntarily agreed to participate in Massachusetts Clean Elections, and who has submitted and not withdrawn a declaration of intent, and who has been neither denied certification nor decertified by the director. Unless a contrary intention clearly appears, participant shall refer to the candidate and the candidate's committee, as defined in section 1 of chapter 55.

"Political committee", a political committee as defined in section 1 of chapter 55, but not including a committee which receives contributions or makes expenditures for the purpose of opposing or promoting a charter change, referendum question, constitutional amendment, or other question submitted to the voters.

"Primary election campaign period", the period beginning the day following the qualifying period and ending the day of the primary election, inclusive.

"Qualifying contribution", an allowable contribution to a participant of at least five dollars made during the qualifying period and after submission of a declaration of intent. An allowable contribution is a qualifying contribution only if it is accompanied by a form prescribed by the director upon which appears: (1) the amount of the qualifying contribution; (2) the name and address of the contributor; and (3) a statement signed and dated by the contributor stating that he wishes the participant to be eligible for Massachusetts Clean Elections. A contribution to a participant running for house of representatives is a qualifying contribution only if it is made by a registered voter who is registered in the participant's house district. A contribution to a participant running for senate is a qualifying contribution only if it is made by a registered voter who is registered in the participant's senate district. A contribution to a participant running for councillor is a qualifying contribution only if it is made by a registered voter who is registered in the participant's council district. A contribution to a participant running for statewide office is a qualifying contribution only if it is made by a registered voter who is registered in the Commonwealth. For the purpose of this definition, registered voter shall refer to a person who either is registered at the time he makes a qualifying contribution or becomes registered at least twenty days before the participant makes application to become a certified candidate. During any election cycle, only one allowable contribution by a particular voter to a given participant may be considered a qualifying contribution to that participant.

"Qualifying period", the period during which a candidate may collect qualifying contributions for the purpose of becoming a certified candidate. For a candidate for statewide office, the period shall begin August 1 of the year preceding an election year and end on the last day that such candidate may file nominating papers with the state secretary pursuant to chapter 53. For a candidate for other state office, the period shall begin January 1 of an election year and end on the last day that such candidate may file nominating papers with the state secretary pursuant to chapter 53.

"State office", the offices of governor, lieutenant governor, attorney general, treasurer and receiver general, state secretary, auditor, councillor, state senator, and state representative.

"Statewide office", the offices of governor, lieutenant governor, attorney general, treasurer and receiver general, state secretary and auditor.

"Unexpended clean primary election funds", the money on hand following the end of the primary election campaign period, minus any allowable contributions raised during the election cycle prior to the end of the primary election campaign period, and minus any outstanding obligated expenditures incurred during the election cycle prior to the end of the primary election campaign period.

Section 2. Requirements for Participants.

All candidates for state office shall continue to be bound by all other applicable election and campaign finance statutes and regulations, unless they clearly conflict with the

provisions of this chapter. In addition, a participant in Massachusetts Clean Elections shall abide by the following requirements, and no candidate not complying with such requirements at any time during an election cycle shall be eligible to become a participant.

(a) During an election cycle, a participant shall not accept, expend, or obligate to expend any contribution or funds from any source other than: allowable contributions received in accordance with and subject to section 9; in-kind contributions received in accordance with section 10; and clean election funds received pursuant to sections 7, 8 and 11;

(b) During an election cycle, contributions and clean election funds received by a participant shall be used only to pay expenses or obligated expenditures incurred during that election cycle;

(c) During an election cycle, a participant shall not spend any funds raised or otherwise received in a prior election cycle for the purposes of the current election cycle;

(d) A participant shall agree to and abide by the expenditure limits set forth in section 6 and the allowable and in-kind contribution limits set forth in sections 9 and 10; and

(e) During an election cycle, the financial activity of a participant's candidate's committee shall be conducted from one account kept segregated and separate from any other account.

Section 3. Declaration of Intent.

(a) Any candidate for state office who chooses to become a participant in Massachusetts Clean Elections shall file with the director a declaration of intent to participate as a certified candidate.

(b) A declaration of intent shall be filed with the director during the election cycle and prior to the end of the qualifying period.

(c) A candidate shall submit a declaration of intent prior to soliciting or collecting any qualifying contributions.

Section 4. Qualifying Contributions.

(a) To become a certified candidate, a participant shall receive at least the following minimum number of qualifying contributions for the following state offices:

Governor	\$6,000
Lieutenant Governor	\$3,000
Attorney General	\$3,000
Treasurer and Receiver General	\$3,000
State Secretary	\$2,000
Auditor	\$2,000
Councillor	\$ 400
State Senator	\$ 450
State Representative	\$ 200

(b) No person shall make or give any payment, gift or anything of value in exchange for a contribution, and no such contribution shall be reported or treated as a qualifying contribution. Violation of this provision shall be punishable by a fine of not more than \$2,000.

Section 5. Certification.

(a) Application to become a certified candidate in Massachusetts Clean Elections shall be made by a participant during the qualifying period.

(b) When making application for certification, a participant shall file an update report. For a participant running for state senator or state representative, the update report shall cover contributions and expenditures during the period from January 1 of the election year through the third day before application for certification, and shall have the content and format of reports required pursuant to section 18 of chapter 55. For a participant running for other state office, the update report shall cover contributions and expenditures during the period from the last depository report filed pursuant to section 19 of chapter 55, through the third day before application is made for certification, and shall have the content and format of reports required to be filed pursuant to section 19 of chapter 55.

(c) A participant's application to become a certified candidate shall be on a form prescribed by the director and shall be signed by the participant and the participant's campaign treasurer.

(d) The director shall certify a participant to participate in Massachusetts Clean Elections upon determining that the participant has:

(1) signed and filed a declaration of intent;

(2) collected the required number of qualifying contributions and submitted supporting forms required pursuant to section 4;

(3) complied with the expenditure limits set forth in section 6;

(4) complied with the allowable and in-kind contribution limits set forth in sections 9 and 10;

(5) met all other applicable requirements for participation established in this chapter;

(6) agreed to continue to abide by all requirements for participants after certification; and

(7) met all other applicable requirements concerning candidacy for state office set forth in the constitution and in the general laws.

(e) In no case shall certification or denial of certification be completed more than seven business days after a participant has applied to become a certified candidate and submitted all appropriate supporting documents.

(f) The director's certification or denial of certification is subject to judicial review in the superior court of the county where the candidate resides or in the Suffolk County Superior Court or in the supreme judicial court for Suffolk county, provided, however, that any petition for judicial review shall be filed within fourteen days after the end of the qualifying period.

(g) A participant who fails to become a certified candidate or who is decertified shall no longer be considered a participant and shall no longer be bound by the provisions of this chapter pertaining to participants.

Section 6. Expenditure Limits.

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(a) To become and remain a certified candidate, a participant shall abide by the following expenditure limits, as adjusted in accordance with section 13 and subject only to the exceptions noted in section 11:

(1) For each of the following state offices, during an election cycle and before the end of the primary election campaign period, total expenditures and obligated expenditures, not including in-kind contributions, shall not exceed the following amounts:

Governor	\$1,800,000
Lieutenant Governor	\$ 450,000
Attorney General	\$ 450,000
Treasurer and Receiver General	\$ 450,000
State Secretary	\$ 150,000
Auditor	\$ 150,000
Councillor	\$ 24,000
State Senator	\$ 54,000
State Representative	\$ 18,000

(2) For each of the following state offices, total expenditures and obligated expenditures, not including in-kind contributions, shall not exceed the following amounts during a general election campaign period:

Governor	\$1,200,000
Lieutenant Governor	\$ 300,000
Attorney General	\$ 300,000
Treasurer and Receiver General	\$ 300,000
State Secretary	\$ 100,000
Auditor	\$ 100,000
Councillor	\$ 16,000
State Senator	\$ 36,000
State Representative	\$ 12,000

(b) Nothing in this section shall be construed to permit a participant who does not have an opponent in the primary or general election and who receives less than the full amounts stated in sections 7(a)(1) or (2) to spend up to the limits stated in this section.

Section 7. Clean Election Funds.

(a) A certified candidate shall be eligible to receive distributions from the Massachusetts Clean Elections Fund in the following amounts:

(1) For each of the following state offices, clean primary election funds for a certified candidate shall be limited to:

Governor	\$1,500,000
Lieutenant Governor	\$ 383,000
Attorney General	\$ 360,000
Treasurer and Receiver General	\$ 360,000
State Secretary	\$ 120,000
Auditor	\$ 120,000

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Councillor	\$ 19,000
State Senator	\$ 43,000
State Representative	\$ 15,000

(2) For each of the following state offices, clean general election funds for a certified candidate shall be limited to:

Governor	\$1,050,000
Lieutenant Governor	\$ 255,000
Attorney General	\$ 240,000
Treasurer and Receiver General	\$ 240,000
State Secretary	\$ 80,000
Auditor	\$ 80,000
Councillor	\$ 13,000
State Senator	\$ 29,000
State Representative	\$ 9,000

Section 8. Distribution of Clean Election Funds.

(a) Distributions from the Massachusetts Clean Elections Fund to certified candidates by the director shall, subject to appropriation, be made as follows:

(1) within five business days after certification, fifty per cent of the applicable amount provided in section 7(a)(1);

(2) within five business days after the end of the qualifying period, for certified candidates in a primary with an opponent who will appear on the ballot in the primary, fifty per cent of the applicable amount provided in section 7(a)(1);

(3) within five business days after the primary election, for certified candidates in the general election with an opponent who will appear on the ballot in the general election, the applicable amount provided in section 7(a)(2);

(4) within five business days after the primary election, for certified candidates in a general election without an opponent in the general election, fifty per cent of the applicable amount provided in section 7(a)(2); and

(5) within two business days of the filing of an excess expense report, or within two days of the director's determination of any excess expenses by a non-participating candidate, whichever is earlier, any matching funds as provided in section 11.

(b) Within fourteen business days after the primary election, a certified candidate shall return all unexpended clean primary election funds to the Massachusetts Clean Elections Fund.

(c) Within forty-five days after the general election, a certified candidate shall return all clean election funds that were not expended or obligated to be spent during the election cycle to the Massachusetts Clean Elections Fund.

Section 9. Allowable Contributions.

(a) In any election cycle, the aggregate total of all allowable contributions accepted by a participant, including qualifying contributions, for the following offices shall not exceed:

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Governor	\$450,000
Lieutenant Governor	\$112,000
Attorney General	\$150,000
Treasurer and Receiver General	\$150,000
State Secretary	\$ 50,000
Auditor	\$ 50,000
Councillor	\$ 8,000
State Senator	\$ 18,000
State Representative	\$ 6,000

(b) Any candidate may return a contribution or any portion thereof, and such returned amount shall be neither counted as part of the contribution, nor counted toward the limit stated in subsection (a).

(c) In the event that a participant has accepted allowable contributions which exceed the limit set forth in this section, the participant shall return any such excess funds to the contributors. The refund of excess funds shall be made not later than three days after discovery by the participant, or not later than three days after notification by the director, whichever is earlier.

Section 10. In-Kind Contributions.

(a) A participant may accept in-kind contributions only from political committees and individuals.

(b) In any election cycle, the total value of all in-kind contributions accepted by a participant for the following offices shall not exceed:

Governor	\$35,000
Lieutenant Governor	\$20,000
Attorney General	\$20,000
Treasurer and Receiver General	\$20,000
State Secretary	\$15,000
Auditor	\$15,000
Councillor	\$ 3,000
State Senator	\$ 6,000
State Representative	\$ 3,000

(c) In any election cycle, a participant shall not accept in-kind contributions from an individual or political committee totaling more than \$500 in the aggregate, provided, however, that in any election cycle, a participant running for statewide office may accept in-kind contributions totaling not more than \$3,000 in the aggregate from a political party committee, and provided further that a participant running for any other state office may accept in-kind contributions totaling not more than \$1,000 in the aggregate from a political party committee.

Section 11. Matching Funds.

(a) If at any time during the primary election campaign period, the total of any non-participating candidate's expenses exceeds the primary election expenditure limit provided in section 6(a)(1), the non-participating candidate shall within seven days file an excess expense report with the director. After the first excess expense report, a non-participating candidate shall file an excess expense report every seven days until fourteen days before the primary election, after which such report shall be filed every two business days until the day of the primary election. No excess expense report shall be required for any period during which no excess expenses are incurred.

(b) If at any time during the general election campaign period, the total of any non-participating candidate's expenses exceeds the general election expenditure limit provided in section 6(a)(2), the non-participating candidate shall within seven days file an excess expense report with the director. After the first excess expense report, a non-participating candidate shall file an excess expense report every seven days until fourteen days before the general election, after which such report shall be filed every two business days until the day of the general election. No excess expense report shall be required for any period during which no excess expenses are incurred.

(c) Absent a report of excess expenses, the director may, after notice and opportunity for hearing, make a determination that a non-participating candidate has incurred excess expenses based upon other available evidence or information.

(d) Notwithstanding the provisions of sections 6, 7 and 8, during the primary election campaign period, upon receipt of an excess expense report or upon a determination by the director that a non-participating candidate has incurred excess expenses in a primary election, the director shall within two business days distribute to each certified candidate in such primary election race an amount equal to the amount of such excess expenses. The expenditure limit set forth in section 6(a)(1) for each certified candidate in such primary race shall be increased by such amount.

(e) Notwithstanding the provisions of sections 6, 7 and 8, during the general election campaign period, upon the receipt of an excess expense report from a non-participating candidate running for governor or lieutenant governor or the determination by the director that excess expenses have been incurred by such a candidate, the director shall within two business days:

(1) distribute to each certified candidate for governor whose lieutenant governor running mate has not exceeded the general election expenditure limit set forth in section 6(a)(2), funds in the amount by which expenses during the general election campaign period by the candidate team of the excess expending candidate exceed the sum of the general election expenditure limits for governor and lieutenant governor set forth under section 6(a)(2); and

(2) increase the expenditure limit set forth in section 6(a)(2) for each certified candidate for governor, excluding any candidate for governor whose lieutenant governor running mate has exceeded the general election expenditure limit set forth in section 6(a)(2), by an amount equal to the funds distributed to such certified candidate pursuant to subsection (e)(1).

(f) Notwithstanding the provisions of sections 6, 7 and 8, during the general election campaign period, upon the receipt of an excess expense report from a candidate that is running for state office other than governor or lieutenant governor or upon the determination by the director that excess expenses have been incurred by such a candidate during the general election campaign period, the director shall within two business days distribute to each certified candidate in such general election race an amount equal to the amount of such excess expenses. The expenditure limit set forth in section 6(a)(2) for each certified candidate in such general election race shall be increased by such amount.

(g) Notwithstanding the provisions of subsections (d), (e) and (f),

(1) the maximum amount of clean election funds distributed to a certified candidate during the primary election campaign period pursuant to this chapter, including matching funds, shall not exceed twice the primary election expenditure limit set forth in section 6(a)(1);

(2) the maximum amount of clean election funds distributed to a certified candidate during the general election campaign period pursuant to this chapter, including matching funds, shall not exceed twice the general election expenditure limit set forth in section 6(a)(2);

(3) in any race with more than one non-participating candidate, each certified candidate in that race shall receive matching funds only up to the amount of the excess expenses made by the non-participating candidate or candidate team having the highest excess expenses.

(h) For the purposes of this section, during the primary election campaign period, expenses shall include: expenditures and obligated expenditures incurred during the election cycle; and in-kind contributions received during the election cycle in excess of the limit set forth in section 10.

(i) For the purposes of this section, during the general election campaign period, expenses shall include: expenditures and obligated expenditures incurred during the general election campaign period; and in-kind contributions received during the election cycle in excess of the limit set forth in section 10, minus any such in-kind contributions that were already counted as part of excess expenses during the primary election campaign period.

(j) An excess expense report shall include a statement of expenses incurred in excess of the expenditure limit for the campaign period in which it is filed. An excess expense report filed prior to fourteen days before a primary or general election shall cover expenses incurred during the period from the last day covered by the last report until seven days before the date of filing of the current report. An excess expense report filed within fourteen days of a primary or general election shall cover expenses incurred during the period from the last day covered by the last report until two days before the date of filing of the current report.

(k) A non-participating candidate who fails to file an excess expense report pursuant to subsections (a) or (b), or who does not disclose all expenses required in such report, shall, after notice and opportunity for hearing, be fined by the director an amount equal to two times the amount of the unreported expenses. Such fine shall not be paid out of the campaign account of the non-participating candidate's committee.

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(l) For the purposes of this section, candidate team shall refer to the candidates for governor and lieutenant governor who are grouped together on the official ballot as set forth in Article of Amendment 86 of the Constitution.

(m) Any expenditure limit which is increased pursuant to this section shall be increased only for the current election cycle, and shall not apply to future election cycles.

Section 12. Use of Funds.

(a) A participant may pay and expend allowable contributions and clean election funds received under this chapter only for reasonable and necessary expenses directly related to the campaign of such participant and shall not make any expenditure that is primarily for the participant's or any other person's personal use.

(b) If the director determines that any portion of clean election funds distributed to a certified candidate under this chapter was used for any purpose other than to defray campaign expenditures in that candidate's campaign, or to repay loans the proceeds of which were used to defray campaign expenditures in that campaign, the director shall so notify the certified candidate and the certified candidate shall, after notice and opportunity for hearing, pay an amount equal to the full amount so used to the Massachusetts Clean Elections Fund.

Section 13. Adjustment by Consumer Price Index.

The dollar amounts in sections 6, 7, 9 and 10 shall be adjusted as provided in this section. By February 1 of the year preceding an election year, the director shall determine the percentage increase in the consumer price index from December of 1998 to the most recent December. The dollar amounts and limits set forth in sections 7(a), 9(a) and 10(b) shall be increased by that percentage, and shall be rounded off to the nearest one hundred dollars. The expenditure limits for each state office set forth in section 6(a)(1) shall be increased by the sum of the corresponding increase in section 7(a)(1) and 60% of the corresponding increase in 9(a). The expenditure limits for each state office set forth in section 6(a)(2) shall be increased by the sum of the corresponding increase in section 7(a)(2) and 40% of the corresponding increase in 9(a). The director shall use the revised consumer price index for all urban consumers for the Boston-Lawrence-Salem, Massachusetts-New Hampshire metropolitan area prepared by the United States Department of Labor.

Section 14. Promulgation of Regulations; Director.

(a) The director shall promulgate such rules and regulations as are necessary to implement the purposes of this chapter, including but not limited to the following:

(1) The director shall promulgate a declaration of intent form pursuant to sections 1 and 3.

(2) The director, in consultation with the state secretary, shall promulgate regulations governing the certification of the registration status of voters making qualifying contributions pursuant to section 4.

(3) The director shall promulgate regulations and forms governing application for certification, the filing of update reports, and the timely certification of participants pursuant to section 5.

(4) The director shall promulgate regulations governing the disbursement of clean

general election funds and the timing of such disbursement in the event that primary election results are subject to a recount or judicial review.

(5) The director shall promulgate regulations governing application, certification, expenditure limits, allowable and in-kind contribution limits, and distribution of clean election funds for candidates running in a special election.

(6) The director shall promulgate regulations governing the return of allowable contributions by certified candidates pursuant to section 9.

(7) The director shall promulgate regulations and forms governing the submission of excess expenditure reports pursuant to section 11.

(8) The director shall promulgate regulations governing the return of clean election funds in the case of the death of a certified candidate or withdrawal of a certified candidate from a race.

(b) The director shall have the same power and authority to investigate the legality, validity, completeness and accuracy of all reports filed and actions taken by candidates pursuant to this chapter as is provided by section 3 of chapter 55 pertaining to campaign contributions and expenditures. Such power shall include, but not be limited to, the issuance of summonses.

(c) The director may waive all or part of any civil penalty set forth in this chapter for good cause shown; provided, however, that such findings and the reasons therefor are put in writing.

(d) The director shall annually determine the amount of funds required for the full implementation of all provisions of this chapter. Pursuant to section 3 of chapter 29, the director shall annually make a request to the budget director for inclusion of a request in the budget for such funds. After December 31, 2002, in no case shall the amount of such request exceed 0.1% of the total amount appropriated by the most recently enacted annual general appropriation act.

Section 15. Statements to the Director.

All reports and statements filed with the director pursuant to this chapter shall be signed under the penalties of perjury.

Section 16. Decertification.

(a) In addition to any other penalties which may be imposed under this chapter, the director shall, after notice and opportunity for hearing, decertify any participant who knowingly: 1) exceeds the expenditure limit specified in section 6; 2) accepts any contribution in violation of the allowable or in-kind contribution limits set forth in sections 9 and 10; 3) falsely reports any expenditure or contribution; or 4) fails to disclose any expenditure or contribution as specified in this chapter or in sections 18 or 19 of chapter 55; unless such candidate can establish to the director that such violation was of a trivial or limited character.

(b) Any participant who fails to meet the nominating requirements set forth in chapter 53, including but not limited to a candidate who has lost the party primary, and who has exhausted all legal rights to meet such requirements, shall be decertified by the director.

(c) Any participant decertified pursuant to this chapter, except a candidate who is decertified solely for not winning the party primary who shall return all unexpended clean primary election funds in accordance with section 8(b), shall forfeit and return, with interest from date of receipt to date of return at the rate computed as specified in section 6I of chapter 231, all clean election funds which said candidate has received. Funds forfeited and all applicable interest returned by a decertified candidate shall be deposited in the Massachusetts Clean Elections Fund.

(d) A participant decertified by the director for any violation of sections 6, 9 or 10 of this chapter shall, after notice and opportunity for hearing, be fined an amount equal to two times the amount at issue for each violation. Such fine shall not be paid from the campaign account of the certified candidate's committee.

(e) A participant decertified by the director for falsely reporting or for failing to report or disclose any contribution or expenditure required to be reported or disclosed pursuant to section 18 of chapter 55 or section 5(b) of this chapter shall, after notice and opportunity for hearing, be fined an amount equal to two times the amount at issue for each violation. Such fine shall not be paid from the campaign account of the certified candidate's committee.

(f) All fines imposed by the director under this section shall be paid within 120 days of the decertification and shall be deposited in the Massachusetts Clean Elections Fund.

(g) Decertification is subject to judicial review in the superior court of the county where the candidate resides or in the Suffolk county superior court or in the supreme judicial court for Suffolk county, provided, however, that any petition for judicial review shall be filed within ten days of receipt of notice of decertification.

(h) The director shall provide to the decertified candidate written explanation for the cause of decertification.

Section 17. Review Commission.

(a) There is hereby established a Special Commission on Clean Elections to consist of three members of the senate, one of whom shall be the chairman of the joint committee on election laws who shall serve as co-chairman, one of whom shall be the senate president or his designee, and one of whom shall be the minority leader or his designee, and three members of the house of representatives, one of whom shall be the chairman of the joint committee on election laws who shall serve as co-chairman, one of whom shall be the speaker of the house or his designee, and one of whom shall be the minority leader or his designee, the governor or his designee, the state secretary or his designee, and eight Massachusetts citizens representing the public to be appointed by the director of the office of campaign and political finance.

(b) The special commission shall investigate and study the workings of Massachusetts Clean Elections, including, but not limited to, the required number of qualifying contributions, the level of clean election amounts, expenditure limits for participants, adequacy of funding for the Massachusetts Clean Elections, and the level and impact of independent expenditures in Massachusetts elections. The commission shall meet and hold open hearings at least every two years, beginning in February of 2000. The commission shall

report to the general court the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerks of the senate and the house of representatives on or before the first Wednesday of October in every even-numbered year.

Section 18. Effective Dates.

For statewide offices, this chapter shall be effective for all election cycles beginning on or after November 1, 1998. For other state offices, this chapter shall be effective for all election cycles beginning on or after November 1, 2000.

SECTION 3. Establishment of Massachusetts Clean Elections Fund.

Chapter 10 of the Massachusetts General Laws, as it appears in the 1996 Official Edition, is hereby amended by deleting sections 42, 43, 44 and 45 and inserting in their place the following section:

Section 42. (a) There shall be established and set up on the books of the Commonwealth a separate fund to be known as the Massachusetts Clean Elections Fund. There shall be credited to said fund: all amounts received pursuant to section 6C of chapter 62; all funds paid pursuant to the provisions of chapter 55A, including, but not limited to, fines, penalties and any returned funds and interest thereon; any appropriation, grant, gift, or other contribution explicitly made to said fund; and any income derived from the investment of amounts credited to said fund.

(b) Amounts credited to said fund shall be expended, subject to appropriation, only for the purposes set forth in the provisions of chapter 55A.

(c) In conjunction with the preparation of the Commonwealth's comprehensive annual financial report, the comptroller shall prepare and issue an annual report detailing the revenues and expenditures of said fund.

SECTION 4. Transfer of Money from State Campaign Election Fund.

Any funds in the state election campaign fund shall on the effective date of this act be transferred to the Massachusetts Clean Elections Fund, as established in this act.

SECTION 5. Massachusetts Clean Elections Fund; Voluntary Contributions.

Chapter 62, section 6C of the Massachusetts General Laws, as it appears in the 1996 Official Edition, is hereby amended by striking out the words "state election campaign fund" and inserting in place thereof the words "Massachusetts Clean Elections Fund".

SECTION 6. National Committee Transfers to State Party Committees.

Section 1 of Chapter 55 of Massachusetts General Laws as appearing in the 1996 Official Edition is hereby amended by striking out in lines 34 - 68 the definition of "Contribution", and replacing it with the following:

"Contribution", a contribution of money or anything of value to an individual, candidate, political committee, or person acting on behalf of said individual, candidate or political committee, for the purpose of influencing the nomination or election of said individual or candidate, or for the purpose of supporting or opposing a political party committee, or for the purpose of promoting or opposing a charter change, referendum question, constitutional amendment, or other question submitted to the voters, and shall include any:

(1) gift, subscription, loan, advance, deposit of money, or thing of value, except a loan of money to a candidate by a national or state bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business; (2) transfer of money or anything of value between political committees; (3) payment, by any person other than a candidate or political committee, or compensation for the personal services of another person which are rendered to such candidate or committee; (4) purchase from an individual, candidate, or political committee, or person acting on behalf of said individual, candidate, or political committee, whether through the device of tickets, advertisements, or otherwise, for fund-raising activities, including testimonials, held on behalf of said individual, candidate or political committee, to the extent that the purchase price exceeds the actual cost of the goods sold or services rendered; (5) discount or rebate not available to other candidates for the same office and to the general public; and (6) forgiveness of indebtedness or payment of indebtedness by another person; but shall not include the rendering of services by speakers, editors, writers, poll watchers, poll checkers or others, nor the payment by those rendering such services of such personal expenses as may be incidental thereto, nor the exercise of ordinary hospitality; provided, however, that a transfer of funds or payments by a depository candidate or his committee to the political committee of a party, for goods or services provided to a candidate or his committee by such political party shall not be considered to be a contribution.

SECTION 7. Electronic Disclosure for Candidates and Political Committees.

Chapter 55 of Massachusetts General Laws is hereby further amended by inserting after section 18B the following section:

Section 18C. (a) The director shall develop an electronic reporting system for the submission, retrieval, storage and public disclosure of campaign finance reports and financial activity statements required to be filed with the director.

(b) The following individuals and political committees shall be required to file electronically by modem or via computer terminals provided or approved by the director:

(1) each candidate or candidate's committee that, during an election cycle, has raised or spent more than 10% of the applicable expenditure limit set forth in section 6 of chapter 55A for the following offices: governor, lieutenant governor, state secretary, attorney general, state treasurer and receiver general, auditor, councillor, state senator and state representative;

(2) each ballot question committee that, since December thirty-first following the last state election, has raised or spent more than \$25,000;

(3) any other political committee, other than a candidate's committee or a ballot question committee, if such political committee is aiding or promoting the success or defeat of one or more candidates for an office listed in subsection (b)(1) and has, since December thirty-first following the last state election, raised or spent more than \$10,000.

(c) For every individual and committee required to file electronically under subsection (b) the dates for filing and the contents of the filing shall be the same as that required for a candidate or political committee in section 18 of chapter 55. The filings required under section 19 of chapter 55 for candidates listed in subsection (b) of this section

shall be filed electronically. Filers specified in subsection (b) shall continue to file all paper-generated reports as a form of backup until such time as the director determines that the electronic filing system meets all pertinent filing and disclosure requirements.

(d) The director shall provide the public with electronic access to all campaign finance data and financial activity statements submitted to the agency as required under subsections (b) and (c) not later than three days after the information is received. The director shall have the discretion to provide the public with electronic access to all other campaign finance data and financial activity statements. Electronic access shall include access through the World Wide Web.

(e) Electronic filing shall commence on January 1, 2002 for candidates seeking offices listed in subsection (b)(1). Electronic filing shall commence for candidates for the state senate and house of representatives, on January 1, 2002. Electronic filing shall commence for political committees required to file under subsection (b)(2) on January 1, 2002. Electronic filing shall commence for all other political committees required to file under subsection (b) on January 1, 2004. The director may allow voluntary electronic filing prior to the dates listed and may allow candidates and political committees not required to file electronically to file electronically. After January 1, 2005, the director shall have the discretion to require electronic filing by any class of candidates, individuals, or political committees required to make paper filings as required by chapter 55.

(f) Candidates and political committees who are required to file electronically and fail to file shall be subject to the same penalties as if they failed to file paper filings required under sections 18 and 19 of chapter 55.

(g) The director shall have the discretion to develop the electronic reporting system; to contract with private vendors to develop the system; or to specify the format in which the data is to be filed and to permit any person to adapt his filing software to the required format.

(h) The Director shall develop or employ encryption technology and other means of ensuring the integrity of transmitted data which may be used by filers in lieu of a handwritten signature for verification purposes and to constitute signature under penalties of perjury as required by section 24 of chapter 55.

(i) Any party required to file electronically under this section who fails to file, files late, files a false return, or allows a false return to be filed, shall be subject to the same penalties as if they failed to file or filed late a paper filing required under section 18, or filed a false return or allowed a false return to be filed.

SECTION 8. Severability.

The provisions of this statute, including without limitation the provisions of SECTION 2 herein, shall be deemed severable, and if any part of this statute shall be adjudged unconstitutional or invalid, such judgment shall not affect other valid parts thereof.

This law was approved by the people at the November 3, 1998 state election under Article XVIII of the Amendments to the Constitution

Chapter 396. AN ACT TO ENCOURAGE SAVINGS THROUGH TAX FAIRNESS.

Be it enacted by the People, and by their authority:

SECTION 1. The purpose of this law is to encourage personal savings in the Commonwealth. The personal income tax rate on earnings from savings, whatever its form, shall be no higher than the lowest statutory rate charged on income from wages and salaries.

SECTION 2. Subsection (a) of Section 4 of Chapter 62 of the General Laws, as appearing in the 1996 Official Edition, shall be amended by adding the following at the end thereof: "provided, however that any interest and dividend income subject to this paragraph shall be taxed at the same rate as provided for in subsection (b) of this section".

SECTION 3. The provisions of this act shall apply to tax years beginning on or after January 1, 2000.

This law was approved by the people at the November 3, 1998 state election under Article XVIII of the Amendments to the Constitution

Chapter 397. AN ACT RELATIVE TO FALSE IMPERSONATION AND IDENTITY FRAUD.

Be it enacted, etc., as follows:

SECTION 1. Chapter 266 of the General Laws is hereby amended by inserting after section 37D the following section:-

Section 37E. (a) For purposes of this section, the following words shall have the following meanings:-

"Harass", willfully and maliciously engage in an act directed at a specific person or persons, which act seriously alarms or annoys such person or persons and would cause a reasonable person to suffer substantial emotional distress.

"Personal identifying information", any name or number that may be used, alone or in conjunction with any other information, to assume the identity of an individual, including any name, address, telephone number, driver's license number, social security number, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number, credit card number or computer password identification.

"Pose", to falsely represent oneself, directly or indirectly, as another person or persons.

"Victim", any person who has suffered financial loss or any entity that provided money, credit, goods, services or anything of value and has suffered financial loss as a direct result of the commission or attempted commission of a violation of this section.

(b) Whoever, with intent to defraud, poses as another person without the express authorization of that person and uses such person's personal identifying information to obtain or to attempt to obtain money, credit, goods, services, anything of value, any identification card or other evidence of such person's identity, or to harass another shall be guilty of identity

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fraud and shall be punished by a fine of not more than \$5,000 or imprisonment in a house of correction for not more than two and one-half years, or by both such fine and imprisonment.

(c) Whoever, with intent to defraud, obtains personal identifying information about another person without the express authorization of such person, with the intent to pose as such person or who obtains personal identifying information about a person without the express authorization of such person in order to assist another to pose as such person in order to obtain money, credit, goods, services, anything of value, any identification card or other evidence of such person's identity, or to harass another shall be guilty of the crime of identity fraud and shall be punished by a fine of not more than \$5,000 or imprisonment in a house of correction for not more than two and one-half years, or by both such fine and imprisonment.

(d) A person found guilty of violating any provisions of this section shall, in addition to any other punishment, be ordered to make restitution for financial loss sustained by a victim as a result of such violation. Financial loss may include any costs incurred by such victim in correcting the credit history of such victim or any costs incurred in connection with any civil or administrative proceeding to satisfy any debt or other obligation of such victim, including lost wages and attorney's fees.

SECTION 2. Chapter 268 of the General Laws is hereby amended by inserting after section 34 the following section:-

Section 34A. Whoever knowingly and willfully furnishes a false name or Social Security number to a law enforcement officer or law enforcement official following an arrest shall be punished by a fine of not more than \$1,000 or by imprisonment in a house of correction for not more than one year or by both such fine and imprisonment. Such sentence shall run from and after any sentence imposed as a result of the underlying offense. The court may order that restitution be paid to persons whose identity has been assumed and who have suffered monetary losses as a result of a violation of this section.

Approved December 3, 1998.

Chapter 397. AN ACT RELATIVE TO FALSE IMPERSONATION AND IDENTITY FRAUD.

Be it enacted, etc., as follows:

SECTION 1. Chapter 266 of the General Laws is hereby amended by inserting after section 37D the following section:-

Section 37E. (a) For purposes of this section, the following words shall have the following meanings:-

"Harass", willfully and maliciously engage in an act directed at a specific person or persons, which act seriously alarms or annoys such person or persons and would cause a

reasonable person to suffer substantial emotional distress.

"Personal identifying information", any name or number that may be used, alone or in conjunction with any other information, to assume the identity of an individual, including any name, address, telephone number, driver's license number, social security number, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number, credit card number or computer password identification.

"Pose", to falsely represent oneself, directly or indirectly, as another person or persons.

"Victim", any person who has suffered financial loss or any entity that provided money, credit, goods, services or anything of value and has suffered financial loss as a direct result of the commission or attempted commission of a violation of this section.

(b) Whoever, with intent to defraud, poses as another person without the express authorization of that person and uses such person's personal identifying information to obtain or to attempt to obtain money, credit, goods, services, anything of value, any identification card or other evidence of such person's identity, or to harass another shall be guilty of identity fraud and shall be punished by a fine of not more than \$5,000 or imprisonment in a house of correction for not more than two and one-half years, or by both such fine and imprisonment.

(c) Whoever, with intent to defraud, obtains personal identifying information about another person without the express authorization of such person, with the intent to pose as such person or who obtains personal identifying information about a person without the express authorization of such person in order to assist another to pose as such person in order to obtain money, credit, goods, services, anything of value, any identification card or other evidence of such person's identity, or to harass another shall be guilty of the crime of identity fraud and shall be punished by a fine of not more than \$5,000 or imprisonment in a house of correction for not more than two and one-half years, or by both such fine and imprisonment.

(d) A person found guilty of violating any provisions of this section shall, in addition to any other punishment, be ordered to make restitution for financial loss sustained by a victim as a result of such violation. Financial loss may include any costs incurred by such victim in correcting the credit history of such victim or any costs incurred in connection with any civil or administrative proceeding to satisfy any debt or other obligation of such victim, including lost wages and attorney's fees.

SECTION 2. Chapter 268 of the General Laws is hereby amended by inserting after section 34 the following section:-

Section 34A. Whoever knowingly and willfully furnishes a false name or Social Security number to a law enforcement officer or law enforcement official following an arrest shall be punished by a fine of not more than \$1,000 or by imprisonment in a house of correction for not more than one year or by both such fine and imprisonment. Such sentence shall run from and after any sentence imposed as a result of the underlying offense. The court

may order that restitution be paid to persons whose identity has been assumed and who have suffered monetary losses as a result of a violation of this section.

Approved December 3, 1998.

Chapter 398. AN ACT ESTABLISHING THE MASSACHUSETTS PRUDENT INVESTOR ACT.

Be it enacted, etc., as follows:

SECTION 1. The General Laws are hereby amended by inserting after chapter 203B the following chapter:-

**CHAPTER 203C.
PRUDENT INVESTMENT.**

Section 1. This chapter shall be known as and may be cited as the Massachusetts Prudent Investor Act.

Section 2. (a) Except as provided in subsection (b), a trustee who invests and manages trust assets shall owe a duty to the beneficiaries of a trust to comply with the prudent investor rule set forth in this chapter.

(b) The prudent investor rule may be expanded, restricted, eliminated or otherwise altered by the provisions of a trust. A trustee shall not be liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the provisions of the trust.

Section 3. (a) A trustee shall invest and manage trust assets as a prudent investor would, considering the purposes, terms, and other circumstances of the trust, including those set forth in subsection (c). In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

(b) A trustee's investment and management decisions respecting individual assets shall be considered in the context of the trust portfolio as a part of an overall investment strategy reasonably suited to the trust.

(c) Among circumstances that a trustee shall consider in investing and managing trust assets are such of the following as are relevant to the trust or its beneficiaries:

- (1) general economic conditions;
- (2) the possible effect of inflation or deflation;
- (3) the expected tax consequences of investment decisions or strategies;
- (4) the role that each investment or course of action plays within the overall trust portfolio;
- (5) the expected total return from income and the appreciation of capital;
- (6) other resources of the beneficiaries;
- (7) needs for liquidity, regularity of income, and preservation or appreciation of capital; and

(8) an asset's special relationship or special value, if any, to the purposes of the trust or to one of the beneficiaries.

(d) A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

(e) A trustee may invest in any kind of property or type of investment consistent with the standards of this chapter.

(f) A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has such special skills or expertise, shall have a duty to use such special skills or expertise.

Section 4. A trustee shall reasonably diversify the investments of the trust unless, under the circumstances, it is prudent not to do so.

Section 5. Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, and the other circumstances of the trust, and with the requirements of this chapter.

Section 6. A trustee shall invest and manage the trust assets solely in the interest of the beneficiaries.

Section 7. If a trust has two or more beneficiaries, the trustee shall act impartially in investing and managing the trust assets, taking into account any differing interests of the beneficiaries.

Section 8. In investing and managing trust assets, a trustee shall incur only costs that are appropriate and reasonable in relation to the assets, the purpose of the trust, and the skills of the trustee.

Section 9. Compliance with the prudent investor rule shall be determined in light of the facts and circumstances existing at the time of a trustee's decision or action.

Section 10. (a) A trustee may delegate investment and management functions if it is prudent to do so. A trustee shall exercise reasonable care, skill and caution in:

(1) selecting an agent;

(2) establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and

(3) periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

(b) In performing a delegated function, an agent shall owe a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

(c) A trustee who complies with the requirements of subsection (a) shall not be liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

(d) By accepting the delegation of trust functions from the trustee of a trust that is subject to the laws of the commonwealth, an agent submits to the jurisdiction of the courts of the commonwealth.

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Section 11. The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorize any investment or strategy permitted under this chapter and shall not be interpreted to be a restriction, elimination, or other alteration of the prudent investor rule for purposes of subsection (b) of section 2: "investments permissible by law for investment of trust funds", "legal investments", "authorized investments", "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital", "prudent man rule", "prudent trustee rule", "prudent person rule", and "prudent investor rule".

SECTION 2. Chapter 215 of the General Laws is hereby amended by inserting after section 30 the following section:-

Section 30A. The chief justice of the probate and family court department shall prescribe a form which shall provide all interested persons of an estate with information regarding the estate administration process as well as a description of their rights and ability to enforce such rights under such process. An individual seeking appointment as an executor, administrator, guardian, conservator or trustee of an estate shall provide such form to all ascertained interested persons at the time such individual seeks assent to such appointment. Anyone seeking appointment to such position shall provide proof, in a manner satisfactory to the court, that said form has been provided to all interested parties or that a reasonable effort to so provide such form has been made. Such proof shall be a condition precedent to the appointment of a person as executor, administrator, guardian, conservator or trustee of an estate. Said form shall contain such information as the chief justice deems necessary to adequately inform said persons and shall include, but not be limited to, the following information:

- (1) the name and address of any petitioner, executor, administrator, guardian, conservator or trustee of such estate;
- (2) a statement that this notice is being sent to persons who have or may have some interest in the estate;
- (3) a description of the court where papers relating to the estate are on file;
- (4) requirements under chapter 195 relating to the inventory of estates;
- (5) any surety or bond required of the executor or administrator, the potential for waiving such requirement, the interested persons rights with regard to objecting to such waiver, and any rights such interested person has with regard to bringing an action on such bond;
- (6) requirements under chapter 206 relating to the rendering of accounts and the settlement and allowance of accounts relative to the estate including any rights of an interested person, and any procedures necessary for an interested person to review or object to such accounts or settlement statements including any fees paid to such executor or administrator; and

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(7) a statement describing the legal consequences, including, but not limited to, any rights which may be waived, resulting from the giving of one's assent or consent during the estate administration process.

SECTION 2A. Chapter 182 of the General Laws is hereby amended by inserting after section 2A, as appearing in the 1996 Official Edition, the following section:-

Section 2B. This section shall apply to a trust that is an investment company, as defined in the Investment Company Act of 1940, and that is registered thereunder with the United States Securities and Exchange Commission.

A trustee of a trust who with respect to the trust is not an interested person, as defined in said Investment Company Act of 1940, shall be deemed to be independent and disinterested when making any determination or taking any action as a trustee.

SECTION 3. The provisions of this act shall apply to decisions or actions of a trustee occurring on or after the effective date of this act.

Approved December 4, 1998.

Chapter 399. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 1999 TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.

Be it enacted, etc., as follows:

SECTION 1. To provide for certain unanticipated obligations of the commonwealth and to meet certain requirements of law, the sums set forth in section 2A are hereby appropriated from the general fund unless specifically designated otherwise, for the several purposes and subject to the conditions specified therein and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 1999.

NO SECTION 2.

SECTION 2A.

JUDICIARY

Supreme Judicial Court.

0320-0002 For the costs of computer equipment, cabling and software necessary to correct the date-handling logic problems, so-called, for the supreme judicial court in order to sustain uninterrupted operations through calendar year 2000 and beyond; provided, that said court shall report to the house and senate committees on ways and means not later than January 15, 1999 on the amounts projected to be expended for each such purpose and the extent to which the sum

appropriated herein is sufficient to correct such problems; and provided further, that no funds shall be expended from this item for the purposes of the AA subsidiary, so-called. . . . \$196,970

Appeals Court.

0322-0002 For the costs of computer equipment, cabling and software necessary to correct the date-handling logic problems, so-called, for the appeals court in order to sustain uninterrupted operations through calendar year 2000 and beyond; provided, that said court shall report to the house and senate committees on ways and means not later than January 15, 1999 on the amounts projected to be expended for each such purpose and the extent to which the sum appropriated herein is sufficient to correct such problems; and provided further, that no funds shall be expended from this item for the purposes of the AA subsidiary, so-called. . . . \$115,000

EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.

Reserves.

1599-3880 For a reserve to meet the costs of fiscal years 1998 and 1999 salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Middlesex sheriff and Teamsters Local 122 and to meet the costs of fiscal years 1998 and 1999 salary adjustments and other economic benefits necessary to provide equal salary adjustments and benefits to employees employed in "confidential" positions who otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such salary adjustments and benefits for such "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which otherwise would cover such positions; provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof such amounts as are necessary to meet such costs where the amounts otherwise available in fiscal year 1999 are insufficient for such purposes, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding the

provisions of any general or special law to the contrary, the comptroller shall charge to the Collective Bargaining Reserve Fund expenditures from the accounts receiving transfers from this item in amounts equal to the amounts of such transfers \$69,000

Collective Bargaining Reserve Fund 100.0%

1599-3881 For a reserve to meet the fiscal year 1999 costs of salary adjustments authorized by the collective bargaining agreement between the board of higher education and the Massachusetts Community College Council/Massachusetts Teachers Association; provided, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof such amounts as are necessary to meet such costs where the amounts otherwise available in said fiscal year are insufficient for such purposes, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall charge to the Collective Bargaining Reserve Fund expenditures from the accounts receiving transfers from this item in amounts equal to the amounts of such transfers. . . . \$2,324,000

Collective Bargaining Reserve Fund 100.0%

1599-3882 For a reserve to meet the fiscal year 1999 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the Massachusetts Society of Professors/Faculty Staff Union/MTA/NEA; provided, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof such amounts as are necessary to meet the costs of such adjustments and benefits where the amounts otherwise available in said fiscal year are insufficient for such purposes, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall charge to the Collective Bargaining Reserve Fund expenditures

	from the accounts receiving transfers from this item in amounts equal to the amounts of such transfers	\$4,912,000
	Collective Bargaining Reserve Fund	100.0%
1599-3883	For a reserve to meet the commonwealth's obligations for fiscal years 1999 to 2001, inclusive, pursuant to the provisions of section 18 of article 26 of the collective bargaining agreement between the University of Massachusetts and the Massachusetts Society of Professors/Faculty Staff Union/MTA/NEA; provided, that the secretary of administration and finance may allocate during fiscal year 1999 from the sum appropriated herein such amounts as are necessary to meet the costs of such obligations; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the sum appropriated herein or amounts allocated therefrom shall remain available for expenditure until June 30, 2001	\$2,145,000
1599-3884	For a reserve to meet the fiscal year 1999 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the Massachusetts Society of Professors/Lowell; provided, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof such amounts as are necessary to meet the costs of such adjustments and benefits where the amounts otherwise available in said fiscal year are insufficient for such purposes, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall charge to the Collective Bargaining Reserve Fund expenditures from the accounts receiving transfers from this item in amounts equal to the amounts of said transfers	\$1,363,000
	Collective Bargaining Reserve Fund	100.0%
1599-3885	For a reserve to meet the commonwealth's obligations for fiscal years 1999 to 2001, inclusive, pursuant to the provisions of paragraph C of article 19 of the collective bargaining agreement between the University of Massa-	

	chusetts and the Massachusetts Society of Professors/ Lowell; provided, that the secretary of administration and finance may allocate during fiscal year 1999 from the sum appropriated herein such amounts as are necessary to meet the cost of such obligations; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the sum appropriated herein or amounts allocated therefrom shall remain available for expenditure until June 30, 2000	\$604,000
1599-3886	For a reserve to meet the fiscal year 1999 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the American Federation of Teachers, Local 1895, AFL-CIO, Faculty Federation; provided, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof such amounts as are necessary to meet the costs of such adjustments and benefits where the amounts otherwise available are insufficient in said fiscal year for such purposes, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall charge to the Collective Bargaining Reserve Fund expenditures from the accounts receiving transfers from this item in amounts equal to the amounts of such transfers	\$1,006,000
	Collective Bargaining Reserve Fund	100.0%
1599-3887	For a reserve to meet the commonwealth's obligations for fiscal years 1999 to 2001, inclusive, pursuant to the provisions of paragraph C of article 11 of the collective bargaining agreement between the University of Massachusetts and the American Federation of Teachers, Local 1895, AFL-CIO, Faculty Federation; provided, that the secretary of administration and finance may allocate during fiscal year 1999 from the sum appropriated herein such amounts as are necessary to meet the costs of such obligations; and provided further, that, notwithstanding the provisions of any general or special law to the contrary, the	

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	sum appropriated herein or amounts allocated therefrom shall remain available for expenditure until June 30, 2001.	\$446,000
1599-3889	For a reserve to meet the fiscal year 1999 cost of salary adjustments authorized by the collective bargaining agreement between the University of Massachusetts and AFSCME Local 507; provided, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof such amounts as are necessary to meet the cost of such adjustments where the amounts otherwise available in said fiscal year are insufficient for such purposes, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall charge to the Collective Bargaining Reserve Fund expenditures from the accounts receiving transfers from this item in amounts equal to the amounts of such transfers	\$135,000
	Collective Bargaining Reserve Fund	100.0%
1599-3890	For a reserve to meet the fiscal year 1999 cost of salary adjustments authorized by the collective bargaining agreement between the university of Massachusetts and SEIU Local 254 Clerical/Technical Unit; provided, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof such amounts as are necessary to meet the cost of such adjustments where the amounts otherwise available in said fiscal year are insufficient for such purposes, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall charge to the Collective Bargaining Reserve Fund expenditures from the accounts receiving transfers from this item in amounts equal to the amounts of such transfers	\$108,000
	Collective Bargaining Reserve Fund	100.0%
1599-3891	For a reserve to meet the fiscal year 1998 costs of salary adjustments and other economic benefits authorized by the	

collective bargaining agreement between the Worcester sheriff and the Massachusetts Correction Officers Federated Union and to meet the fiscal year 1998 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in "confidential" positions who otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such salary adjustments and other economic benefits for such "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which otherwise would cover such positions; provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof such amounts as are necessary to meet the costs of such adjustments and benefits in fiscal year 1999, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall charge to the Collective Bargaining Reserve Fund expenditures from the accounts receiving transfers from this item in amounts equal to the amounts of such transfers \$1,075,000

Collective Bargaining Reserve Fund 100.0%

1599-3892 For a reserve to meet the fiscal year 1999 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Worcester sheriff and the Massachusetts Correction Officers Federated Union and to meet the fiscal year 1999 cost of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in "confidential" positions who otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such salary adjustments and other economic benefits for such "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which otherwise would cover such positions; provided further,

that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof such amounts as are necessary to meet the costs of such adjustments and benefits where the amounts otherwise available in said fiscal year are insufficient for such purposes, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; provided further, that not less than 30 days prior to the expenditure or transfer of any amounts from the sum appropriated herein, the Worcester sheriff shall submit to the house and senate committees on ways and means a report detailing the amounts and reasons why salary adjustments or economic benefits authorized by said collective bargaining agreement were paid prior to enactment of an appropriation therefor and to account for any intersubsidiary transfers which were completed to facilitate such payments; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall charge to the Collective Bargaining Reserve Fund expenditures from the accounts receiving transfers from this item in amounts equal to the amounts of such transfers \$2,015,000

Collective Bargaining Reserve Fund 100.0%

1599-3893 For a reserve to meet the fiscal year 1999 cost of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the Professional Staff Union, Local 509, Service Employees International Union, AFL-CIO/CLC; provided, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof such amounts as are necessary to meet the costs of such adjustments and benefits where the amounts otherwise available in said fiscal year are insufficient for such purposes, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall charge to the Collective Bargaining Reserve Fund expenditures from the accounts receiving transfers from this item in amounts equal to the amounts of such transfers \$1,650,000

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	Collective Bargaining Reserve Fund	100.0%
1599-3894	For a reserve to meet the commonwealth's obligations for fiscal years 1999 to 2001, inclusive, pursuant to the provisions of subsection K of section 31.1 of article 31 of the collective bargaining agreement between the University of Massachusetts and the Professional Staff Union, Local 509, Service Employees International Union, AFL-CIO/CLC; provided, that the secretary of administration and finance may allocate during fiscal year 1999 from the sum appropriated herein such amounts as are necessary to meet the cost of such obligations; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the sum appropriated herein or amounts allocated therefrom shall remain available for expenditure until June 30, 2001	\$732,000
1599-3895	For a reserve to meet the fiscal year 1999 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and Service Employees International Union, Local 254, AFL-CIO/CLC, Professional Administrative Unit; provided, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof such amounts as are necessary to meet the costs of such adjustments and benefits where the amounts otherwise available in said fiscal year are insufficient for the such purposes, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall charge to the Collective Bargaining Reserve Fund expenditures from the accounts receiving transfers from this item in amounts equal to the amounts of such transfers	\$413,000
	Collective Bargaining Reserve Fund	100.0%
1599-3896	For a reserve to meet the commonwealth's obligations for fiscal years 1999 to 2001, inclusive, pursuant to the provisions of article XII of the collective bargaining agreement between the University of Massachusetts and Service Employees International Union, Local 254,	

AFL-CIO/CLC, Professional Administrative Unit; provided, that the secretary of administration and finance may allocate during fiscal year 1999 from the sum appropriated herein such amounts as are necessary to meet the cost of such obligations; and provided further, that, notwithstanding the provisions of any general or special law to the contrary, the sum appropriated herein or amounts allocated therefrom shall remain available for expenditure until June 30, 2001 \$183,000

1599-3897 For a reserve to meet the fiscal year 1998 cost of salary adjustments and other economic benefits authorized by the memorandum of agreement for a successor collective bargaining agreement between the commonwealth and the Massachusetts Correction Officers Federated Union (Unit 4) and to meet the fiscal year 1998 costs of salary adjustments and other economic benefits for employees employed in "confidential" positions who otherwise would be covered by such agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which otherwise would cover such positions; provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof such amounts as are necessary to meet said fiscal year 1999 costs, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding any general or special law to the contrary, the comptroller shall charge to the Collective Bargaining Reserve Fund expenditures from the accounts receiving transfers from this item in amounts equal to the amounts of such transfers \$3,374,000

Collective Bargaining Reserve Fund 100.0%

1599-3898 For a reserve to meet the fiscal year 1999 costs of salary adjustments and other economic benefits authorized by the memorandum of agreement for a successor collective bargaining agreement between the commonwealth and the

Massachusetts Correction Officers Federated Union (Unit 4) and to meet the fiscal year 1999 costs of salary adjustments and other economic benefits for employees employed in "confidential" positions who otherwise would be covered by such agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which otherwise would cover such positions; provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof such amounts as are necessary to meet said fiscal year 1999 costs, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding any general or special law to the contrary, the comptroller shall charge to the Collective Bargaining Reserve Fund expenditures from the accounts receiving transfers from this item in amounts equal to the amounts of such transfers \$15,739,000
Collective Bargaining Reserve Fund 100.0%

EXECUTIVE OFFICE OF PUBLIC SAFETY.
Department of State Police.

8100-0062 For the training and related costs of a state police class of not more than 125 recruits; provided, that such training shall commence not later than 90 days after the effective date of this act; and provided further, that the secretary of public safety shall report to the house and senate committees on ways and means whether such class meets the terms and conditions of the Title I of the federal Violent Crime Control and Law Enforcement Act of 1994 with respect to the maintenance of state law enforcement staffing levels \$2,235,520

SECTION 3. This act shall take effect upon its passage.
Approved December 4, 1998.

Chapter 400. AN ACT PROVIDING FOR ASSOCIATE MEMBERS FOR THE YOUTH COMMISSION IN THE CITY KNOWN AS THE TOWN OF METHUEN.

Be it enacted, etc., as follows:

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SECTION 1. Notwithstanding the provisions of section 8E of chapter 40 of the General Laws, the city known as the town of Methuen may, by ordinance, provide for the appointment of associate members of the youth commission of said city. Such associate members may be designated to sit on said commission by the chairman thereof in case of absence, inability to act or conflict of interest on the part of any member of said commission or, in the event of a vacancy on the board of said commission, until such vacancy is filled in the manner provided in said section 8E.

SECTION 2. This act shall take effect upon its passage.

Approved December 4, 1998.

Chapter 401. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF LUCY STONE DAY.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 15AAAA, inserted by chapter 118 of the acts of 1998, the following section:-

Section 15BBBB. The governor shall annually issue a proclamation setting apart March 8 as Lucy Stone Day and recommending that said day be observed in an appropriate manner by the people.

Approved December 4, 1998.

Chapter 402. AN ACT AUTHORIZING THE TOWN OF GREENFIELD TO ISSUE A LICENSE FOR THE SALE OF WINES AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the town of Greenfield may issue to Bickford's Family Restaurant a license for the sale of wines and malt beverages to be drunk on the premises under the provisions of section 12 of said chapter 138. Such license shall be subject to all of the provisions of said chapter 138 except for said section 17.

Approved December 9, 1998.

**Chapter 403. AN ACT AUTHORIZING THE IMPOSITION OF FEES FOR THE
EMPLOYMENT OF CONSULTANTS BY THE CONSERVATION
COMMISSION OF THE TOWN OF NORTH ANDOVER.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the conservation commission of the town of North Andover may, upon promulgation in accordance with this act of rules and regulations, provide for the imposition of reasonable fees for the employment of consultants. Such fees shall be deposited in a special account for the review of petitions or applications required by state or federal law or local by-law filed with it for review or approval. Such rules or regulations shall provide for an administrative appeal from the selection of the outside consultant to the board of selectmen. The grounds for such appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or related field. The required time limits for action upon an application or petition by the municipal permit granting board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the board of selectmen within one month following the filing of such appeal, the selection made by the conservation commission shall stand. Such administrative appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in this act. Any such account shall be established by the town treasurer and shall be kept separate and apart from other monies. The special account, including accrued interest, if any, shall be expended at the direction of said conservation commission without further appropriation; provided, however, that such funds are to be expended by it only in connection with carrying out its responsibilities under law. Any excess amount in the account attributable to a specific project, including any accrued interest, at the completion of said project shall be repaid to the applicant or to the applicant's successor in interest and a final report of said account shall be made available to the applicant or the applicant's successor in interest. The town accountant shall submit annually a report of said special account to the board of selectmen to review. Such report shall be published in the town report. Said town accountant shall submit annually a copy of said report to the director of the bureau of accounts.

Approved December 9, 1998.

**Chapter 404. AN ACT RELATIVE TO TOWN MEETING MEMBERS IN THE
TOWN OF AMHERST.**

Be it enacted, etc., as follows:

SECTION 1. Chapter 10 of the acts of 1936 is hereby amended by striking out section 4, as amended by chapter 1088 of the acts of 1973, and inserting in place thereof the following section:-

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Section 4. Nomination of candidates for town meeting members to be elected under this act shall be made by nomination papers which shall bear no political designation, but to the name of a candidate for re-election may be added the words "Candidate for Re-election". Nomination papers shall be signed by at least one registered voter of the precinct in which the candidate resides, and shall be filed with the town clerk at least 49 days before the election. No nomination paper shall be valid in respect to any candidate whose written acceptance is not thereon or attached thereto when filed.

SECTION 2. Said chapter 10 is hereby further amended by striking out section 7 and inserting in place thereof the following section:-

Section 7. In the event of any vacancy in the full number of elected town meeting members from any precinct, the town clerk shall, not less than 30 days prior to the first special town meeting after October 1, but before December 31, mail written notice of such vacancy to the remaining elected members of the precinct and shall publish said notice in a newspaper of general circulation in the town. Nomination papers to fill any vacant seat may be filed by any registered voter of the precinct with the town clerk until the eighth day following the date of publication. The town clerk shall within seven days thereafter certify the qualified candidates, mailing to the remaining town meeting members in the precinct a copy of such certification together with a written ballot identifying the qualified candidates and the number of vacancies to be filled.

The remaining town meeting members of the precinct shall, on or before the seventh day following said mailing, cause their ballots to be delivered to the town clerk in a sealed envelope.

On the first business day following said seventh day the town clerk shall open the envelopes at a duly noticed public meeting and shall certify the election of those with the largest number of votes, ties to be resolved by lot. In the event of any vacancy in the full number of elected town meeting members from any precinct which cannot be filled by means of the above mentioned procedure, the remaining elected members of the precinct may choose a successor from among the registered voters thereof. Upon petition therefor, signed by not less than ten town meeting members from the precinct, or if the entire number of town meeting members from said precinct is less than 18, by a majority thereof, notice of any vacancy shall be made promptly to the remaining members from the precinct wherein the vacancy or vacancies exist by the town clerk, who shall call a special meeting of such members for the purpose of filling any vacancy.

The town clerk shall cause to be mailed to every such member, not less than five days before the time set for the meeting, a notice specifying the object, time and place of the meeting. At the said meeting, a majority of the members from such precinct shall constitute a quorum, and they shall elect from their own number a chairperson and a clerk. The election to fill such vacancy shall be by ballot and a majority of the votes cast shall be required for a choice. The chairperson and clerk shall count the ballots and shall make a certificate of such election and forthwith file the same with the town clerk, together with a written acceptance by the member or members so elected, who shall be deemed elected and qualified

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as a town meeting member or members, subject to the right of all town meeting members to judge of the election and qualifications of the members as set forth in section 3. Town meeting members elected pursuant to this section shall serve until the next annual town election.

Approved December 9, 1998.

Chapter 405. AN ACT AUTHORIZING THE TOWN OF FAIRHAVEN TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the town of Fairhaven may issue to Fort Phoenix Post No. 2892, Veterans of Foreign Wars of the U.S. Inc. a license to sell all alcoholic beverages to be drunk on the premises under the provisions of section 12 of said chapter 138. Such license shall be subject to all of the provisions of said chapter 138, except said section 17 and except that the license authorized by this act shall not be transferred to another location but may be transferred to another person at the same location.

SECTION 2. This act shall take effect upon its passage.

Approved December 10, 1998.

Chapter 406. AN ACT RELATIVE TO THE RECREATION COMMISSION OF THE TOWN OF SWAMPSCOTT.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the town of Swampscott may discount fees charged to senior citizens for activities under the jurisdiction of the recreation commission of said town.

Approved December 10, 1998.

Chapter 407. AN ACT AUTHORIZING THE TOWN OF GRAFTON TO ABATE A CERTAIN BETTERMENT.

Be it enacted, etc., as follows:

Notwithstanding the provisions of chapter 80 of the General Laws or any other general or special law to the contrary, the town of Grafton may grant to the owner of the

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property located at 180 Brigham Hill Road in said town an abatement of a sewer betterment which is recorded in the Worcester county registry of deeds in Book 7865, Page 385.

Approved December 10, 1998.

Chapter 408. AN ACT AUTHORIZING THE TOWN OF GREENFIELD TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the town of Greenfield is hereby authorized to issue to T & B Paulsen, Inc., d/b/a The Mist, a license for the sale of all alcoholic beverages to be drunk on the premises under the provisions of section 12 of said chapter 138. Such license shall be subject to all of the provisions of said chapter 138 except said section 17.

Approved December 16, 1998.

Chapter 409. AN ACT PROVIDING FOR THE APPOINTMENT OF A CLERK AND TREASURER OF THE OAK BLUFFS WATER DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. The third paragraph of section 10 of chapter 439 of the acts of 1991 is hereby amended by striking out the first sentence and inserting in place thereof the following two sentences:- The water commissioners at each annual meeting shall appoint a clerk and a treasurer. The treasurer shall be qualified by training and experience to hold such office.

SECTION 2. Notwithstanding the provisions of section 1, the incumbents in the office of clerk and treasurer on the effective date of this act shall continue to hold said offices and perform the duties thereof until their terms expire or the office becomes vacant.

SECTION 3. This act shall take effect upon its acceptance by a majority vote of the voters of the Oak Bluffs Water District present and voting thereon at the next annual district meeting or a special district meeting called for such purpose.

Approved December 16, 1998.

Chapter 410. AN ACT INCREASING THE PENALTIES FOR VIOLATIONS OF SAFETY PRECAUTIONS AT RAILROAD CROSSINGS.

Be it enacted, etc., as follows:

SECTION 1. Section 15 of chapter 90 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following two sentences:- Whoever violates any provisions of this section and is operating a school bus, or any motor vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, shall be punished by a fine of not less than \$500 or by being required to perform a total of 100 hours of community service which may include service in the operation lifesaver program. All other persons violating the provisions of this section not operating a school bus, or any motor vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, shall be punished by a fine of not less than \$100 nor more than \$200 or by being required to perform a total of 50 hours of community service which may include service in the operation lifesaver program.

SECTION 2. Section 218 of chapter 160 of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Whoever knowingly, without right is present, stands, walks, or rides a bicycle, snow vehicle, recreational or other vehicle on the right-of-way, bridge, or other property of, or used or controlled by any railroad corporation, except at a highway or other authorized grade crossing and except on rights-of-way formally abandoned pursuant to state or federal law and no longer owned by said railroad corporation or rights-of-way owned by said railroad corporation but which have been converted or leased specifically for use as a bicycle or walking path in accordance with state or federal laws, shall be fined \$100 or shall be required to perform a total of 50 hours of community service which may include service in the operation lifesaver program, so-called.

Approved December 18, 1998.

Chapter 411. AN ACT EXEMPTING THE POSITION OF SCHOOL CUSTODIAN IN THE TOWN OF DEDHAM FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The position of custodian in the school department of the town of Dedham shall be exempt from the provisions of chapter 31 of the General Laws.

SECTION 2. The provisions of section 1 shall not impair the civil service status of any person holding the position of school custodian in the school department of the town of Dedham on the effective date of this act.

SECTION 3. This act shall take effect upon its passage.

Approved December 18, 1998.

Chapter 412. AN ACT RELATIVE TO THE PARKS AND RECREATION COMMISSION OF THE TOWN OF DEDHAM.

Be it enacted, etc., as follows:

SECTION 1. Chapter 617 of the acts of 1974 is hereby repealed.

SECTION 2. Article 3 of the charter of the town of Dedham, which is on file in the office of the archivist of the commonwealth as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 3-11 and inserting in place thereof the following section:-

Section 3-11. Parks and Recreation Commission.

(a) Composition, Term of Office - There shall be a parks and recreation commission which shall consist of five members, elected at large. The term of office of commission members shall be for three years. The term of office of commission members shall be so arranged that as nearly an equal number as is possible shall expire each year.

(b) Powers and Duties - The commission shall conduct and promote recreation, play, sport, physical education and other programs to meet the leisure time needs of the community and shall have all powers, duties and trusts which are conferred or imposed on park commissions and recreation commissions under the constitution and laws of the commonwealth. The commission shall consider the needs of all age groups in the development of programs. The commission shall have such additional powers and duties as may be authorized by the charter, by-law or by other vote of the town meeting.

(c) Powers and Duties - The parks and recreation commission may appoint a director of parks and recreation. Said director shall be appointed annually by the commission for a term of one year and until qualification by a successor and may be removed by the commission at any time when, in the judgment of the commission, the public interest so requires; and any vacancy for any cause may be filled by appointment by the commission of the remainder of the unexpired term.

SECTION 3. Parks and recreation commissioners holding such office on the effective date of this act shall continue to hold such office for the remainder of the terms for which they were elected and shall for all purposes be deemed to be elected commissioners under the town of Dedham charter. All acts of the existing parks and recreation commission and all contracts and liabilities of the commission in effect on the effective date of this act shall remain in effect and the commission and commissioners elected under the charter shall in all respects and for all purposes be the lawful successors to the existing commission and commissioners. All employees of the existing parks and recreation commission shall continue as employees of the commission without loss of pay, seniority, retirement or pension rights or any other privileges and all full-time park employees shall continue to be subject to chapter 31 of the General Laws.

SECTION 4. This act shall take effect upon its passage.

Approved December 18, 1998.

Chapter 413. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF LOWELL AS THE FRANK W. GRADY BRIDGE.

Be it enacted, etc., as follows:

The bridge on Boylston street spanning the Boston and Maine railroad tracks in the city of Lowell shall be designated and known as the Frank W. Grady Bridge, in honor of Frank W. Grady and his many years of service to the city of Lowell as city engineer. The department of highways shall erect and maintain suitable markers bearing said designation in compliance with the standards of said department.

Approved December 22, 1998.

Chapter 414. AN ACT RELATIVE TO THE TAXATION OF CERTAIN REAL ESTATE IN THE TOWN OF MARSHFIELD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the actions of the town meeting of the town of Marshfield and the board of selectmen of said town in voting to acquire certain land for cemetery purposes in accordance with a written agreement with William H. Couch and others dated November 30, 1976; the actions of said board of selectmen, board of public works and board of assessors in executing said agreement; and the actions of said board of assessors in granting real estate tax abatements pursuant to said agreement are hereby ratified, validated and confirmed in all respects, and as though this act had been in full force and effect at the time of said actions.

SECTION 2. The board of assessors of the town of Marshfield may continue to grant real estate abatements in accordance with the agreement described in section 1 during the lifetime of William H. Couch, Harriet D. Couch and Sarah Thorn Couch or the survivor of them.

Approved December 22, 1998.

Chapter 415. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF EASTHAM.

Be it enacted, etc., as follows:

SECTION 1. Chapter 3 of the charter of the town of Eastham, which is on file in the office of the archivist of the commonwealth as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 3-1-4 and inserting in place thereof the following section:-

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Section 3-1-4. The board of selectmen shall hold at least two regularly scheduled monthly meetings in the evening, or if on Saturday, during the day.

SECTION 1A. Section 3-8-2 of said chapter 3 of said charter of the town of Eastham is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- He shall appoint members to the Cape Cod regional vocational high school committee, three members of the finance committee and members to town meeting standing and temporary committees as the town meeting may vote.

SECTION 2. Chapter 9 of said charter is hereby amended by striking out section 9-5-9 and inserting in place thereof the following section:-

Section 9-5-9. The board of selectmen shall act as the personnel board.

Approved December 23, 1998

Chapter 416. AN ACT PROVIDING FOR A TOWN ADMINISTRATOR IN THE TOWN OF LAKEVILLE

Be it enacted, etc., as follows:

SECTION 1. Upon the effective date of this act, the town of Lakeville shall be governed by the provisions of this act. To the extent that the provisions of this act modify or repeal existing general law and special act or the by-law of the town of Lakeville, this act shall govern.

SECTION 2. (a) The board of selectmen, in this section called the board, shall serve as the goal setting, long range planning and policy making body of the town, recommending major courses of action to the town meeting, and adopting policy directives and guidelines which are to be implemented by officers, boards, committees, commissions and employees of the town.

(b) The board shall have the power to enact rules and regulations to implement policies and to issue interpretations.

(c) The board shall exercise, through the town administrator, general supervision over all matters affecting the interests or welfare of the town.

(d) The board shall appoint the town administrator, town counsel, registrars of voters, election officers, constables, and members of all committees, boards and commissions except those appointed by the moderator or elected by the voters pursuant to the town by-laws or general law.

(e) The board shall have general administrative oversight of such appointed boards, committees, and commissions appointed by the board of selectmen.

(f) The board shall have the responsibility and authority for licenses and other quasi-judicial functions as provided by general law and by-law of said town.

(g) The board shall be responsible for the preparation of all town meeting warrants.

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(h) The board may make investigations and may authorize the town administrator or other agents to investigate the affairs of the town and the conduct of any town department, office, or agency, including any doubtful claims against the town, and for this purpose said board may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The report of any such investigation shall be placed on file in the office of the town clerk, and a report summarizing such investigation shall be printed in the next annual town report.

(i) The board shall review the annual proposed budget submitted by the town administrator and make recommendations with respect thereto as they deem advisable. The town administrator shall present the budget, incorporating the recommendations of the board to the finance committee.

(j) The board, by a majority vote of its full membership, shall appoint a town administrator who shall be a person with executive and administrative qualifications and especially fitted by education, training and experience to perform the duties of the office. The office of town administrator shall not be subject to the Lakeville Personnel Administration Plan. Said town may from time to time, by by-law, establish such additional qualifications as it deems necessary and appropriate.

(k) The board may remove the town administrator at any time by a majority vote. Within seven days thereafter, the town administrator may appeal the decision of said board by filing a written request for a public hearing. If such a request is filed, said board shall conduct a public hearing within 14 days, and shall act on the appeal within seven days thereafter.

(l) The board shall set the compensation for the town administrator, not to exceed an amount appropriated by the town meeting.

(m) The board shall designate a qualified person to serve as acting town administrator and to perform the duties of the office during any period of any vacancy exceeding 30 days, caused by the administrator's absence, illness, suspension, removal or resignation. The appointment shall be for a period not to exceed 180 days.

SECTION 3. The town administrator shall be the chief administrative officer of the town and shall be responsible to the board of selectmen for administering and coordinating all employees, activities and departments placed by general law, or by-law, who are under the control of the board of selectmen.

Said administrator shall devote his full working time to the duties of the office and shall not engage in any business activity during his term, except with the written consent of the board of selectmen.

The town administrator shall:

(a) attend all meetings of the board of selectmen, except when excused, and shall have the right to speak but not vote;

(b) administer, either directly or through a person or persons appointed in accordance with this act, all provisions of the General Laws and special acts applicable to the town, all town by-laws, and all regulations established by the board of selectmen;

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(c) assemble, prepare and present to the board of selectmen all annual operating and capital budgets of the town and be responsible for the development and annual revision of the capital improvements program;

(d) be responsible for seeing that the budget is administered as adopted by the town meeting in accordance with the General Laws, this act and by-laws;

(e) keep the board of selectmen fully informed regarding all departmental operations, fiscal affairs, general problems, and administrative actions, and to this end shall submit periodic reports to the board of selectmen;

(f) keep the board of selectmen informed regarding the availability of federal and state funds and how such funds might relate to unmet long-range needs;

(g) prepare applications for all town grants;

(h) be responsible for the day-to-day administration of the town's personnel system;

(i) negotiate collective bargaining contracts unless the board of selectmen designates another negotiator;

(j) be the chief procurement officer of the town as defined by general law, and appoint such assistant procurement officers as provided in chapter 30B of the General Laws;

(k) make recommendations to the board of selectmen regarding vacancies in town offices and boards to be filled by the board of selectmen pursuant to the General Laws or town by-law;

(l) coordinate the activities of any board, commission, and committee concerned with long-range municipal planning, including the physical, economic and environmental development of the town;

(m) develop, keep and annually update a full and complete inventory of all property of the town, both real and personal;

(n) distribute, or cause to be distributed, copies of the warrant for the annual town meeting;

(o) have the authority to sign payroll and accounts payable warrants concerning the everyday operation of the town;

(p) upon request and with the approval of the board of selectmen, prosecute, defend, or compromise all litigation to which the town is party;

(q) perform such other duties as may be required by this act, by-law, or vote of the board of selectmen.

The board of selectmen shall provide for an annual review of the job performance of the town administrator which shall, at least in summary form, be a public record.

The town may by by-law, from time-to-time, modify, delete and amend the responsibilities and duties as necessary or appropriate, consistent with this act.

SECTION 4. This act shall take effect upon its acceptance by the town of Lakeville.

Approved December 23, 1998

Chapter 417. AN ACT ESTABLISHING A CAPITAL INVESTMENT IN THE TOWN OF BOYLSTON.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of Boylston is hereby authorized to establish and maintain a special fund to be known as the Capital Investment Fund.

Said town of Boylston may appropriate to said fund by a majority vote at an annual or special town meeting in any year an amount not exceeding 10 per cent of the amount raised in the preceding fiscal year by taxation of real estate and tangible personal property. The aggregate amount of said fund at any time shall not exceed 10 per cent of the equalized valuation of said town of Boylston as defined in section 1 of chapter 44 of the General Laws. Any interest shall be added to and become a part of said fund.

The treasurer of the town of Boylston shall be the custodian of the fund and may deposit proceeds in national banks or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth or in federal savings and loan associations situated in the commonwealth.

Monies in said fund may be appropriated at an annual town meeting or a special meeting by two-thirds vote. Monies in said fund may be appropriated for any purpose for which said town of Boylston would be authorized to borrow money under section 7 or 8 of chapter 44 of the General Laws, other than clauses (1) and (2) of said section 8 of said chapter 44, and to pay the debt services on said projects.

The capital program committee shall operate in an advisory capacity to town meeting and consider matters relating to appropriations from said fund, and may, but is not required to, make recommendations to said town of Boylston or to any board, committee or official thereof, relative to such matters and establish policies, relative to the funding of capital projects of said town of Boylston, and set priorities and schedules for such capital projects.

Approved December 23, 1998.

Chapter 418. AN ACT RELATIVE TO THE APPROVAL OF BEANO LICENSES IN THE CITY OF WORCESTER

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the city of Worcester may, by ordinance, delegate to the Worcester license commission the authority to grant the local approval of beano license applications provided for in section 38 of chapter 10 of the General Laws.

Approved December 23, 1998

Chapter 419. AN ACT AUTHORIZING THE TOWN OF NORTH READING TO ESTABLISH A CERTAIN FUND.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of North Reading is hereby authorized to appropriate in any given year money to establish a fund to be known as the North Reading Town Employee Retirement Fund, which shall be kept separate and apart from all other monies by the treasurer of said town and which together with any interest shall be used for the purposes of paying costs associated with the retirement of town employees such as accrued vacation and sick leave. Any expenditures from said fund shall require a majority vote of any regular or special town meeting.

Approved December 23, 1998.

Chapter 420. AN ACT AUTHORIZING THE TOWN OF GRAFTON TO EXECUTE A CERTAIN LEASE.

Be it enacted, etc., as follows:

The town of Grafton, acting by and through its board of selectmen, is hereby authorized to lease a certain parcel of land to the Grafton Water District for the purposes of the installation, construction, operation, maintenance and repair of a public water supply well including, but not limited to, installation, construction and operation of test wells, observation wells, pumping equipment, pipes, mains, lines, conduits, drains, utilities, access drives and associated structures. Said lease shall be for a term of 30 years and may be extended with the approval of the town for an additional term of 30 years. Said parcel is shown as lot 7 on Assessor's Map 105.

Approved December 23, 1998

Chapter 421. AN ACT RELATIVE TO THE TOWN MANAGER OF THE TOWN OF COHASSET.

Be it enacted, etc., as follows:

SECTION 1. Paragraph (iii) of subsection (C) of section 4 of chapter 34 of the acts of 1997 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Said town manager shall appoint the police chief, fire chief, town treasurer/collector, town accountant, department of public works superintendent, health agent, chief librarian, superintendent of wires, building inspector/zoning officer, plumbing and gas inspector, constable, harbor master, assistant assessor, director of elder affairs, recreation director and the tree, park and cemetery superintendent; and any other positions

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normally appointed by said board of selectmen and subordinates and employees under the direct supervision of said town manager as well as officers, subordinates and employees for whom no other method of selection is provided in this act, except employees of the school department.

SECTION 2. Clause (k) of paragraph (v) of said subsection (C) of said section 4 of said chapter 34 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Manage and be responsible for all town buildings, property and facilities except those under the jurisdiction of the housing authority, school committee, sewer commission or water commission unless requested by those agencies.

SECTION 3. This act shall take effect upon its passage.

Approved December 23, 1998.

Chapter 422. AN ACT RELATIVE TO VIOLENCE PREVENTION PROGRAMS IN PUBLIC SCHOOLS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith violence prevention programs in public schools, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Section 1 of chapter 71 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following paragraph:-

The advisory council on violence prevention established by section 1G of chapter 15 shall recommend for approval by the board of education a model curriculum for grades kindergarten through 12 in education programs on violence prevention for the purpose of informing students of the harmful effects of teenage violence, weapons and illegal drug use and of promoting community and social responsibility. The department of education shall send a copy of said curriculum to the superintendent of schools for each school district in the commonwealth. The department shall encourage school districts to implement said curriculum or a variation thereof.

Approved December 23, 1998

Chapter 423. AN ACT AUTHORIZING THE ESTABLISHMENT OF SENIOR CITIZEN SAFETY ZONES IN THE CITY OF HOLYOKE.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the city of Holyoke, acting by and through its city council with the approval of the mayor, may

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designate certain public ways or portions thereof as senior citizen safety zones. The department of public works of said city in consultation with the police department of said city shall post signs bearing such designation and establish appropriate special limits for any such safety zones. Said department shall also take such other action as may be necessary to reduce vehicular speed in any such safety zones including, but not limited to, the installation of flashing lights and the restriping of such public ways.

Approved December 23, 1998

Chapter 424. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF WORCESTER AS THE CAPTAIN WILLIAM AMORELLO MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The bridge located on Plantation street spanning the Conrail tracks in the city of Worcester shall be designated and known as the Captain William Amorello Memorial bridge, in memory of Captain William Amorello. The department of highways shall erect and maintain a suitable marker on said bridge bearing said designation in compliance with the standards of said department.

Approved December 23, 1998.

Chapter 425. AN ACT RELATIVE TO WATER AND SEWER SERVICES OF THE TOWN OF HOPEDALE.

Be it enacted, etc., as follows:

No water services or sewer services shall be granted outside the boundary lines of the town of Hopedale except pursuant to town meeting authorization of an intermunicipal agreement pursuant to the provisions of section 4A of chapter 40 of the General Laws.

Approved December 24, 1998

Chapter 426. AN ACT AUTHORIZING THE CITY OF WESTFIELD TO SUPPLY WATER OUTSIDE ITS BOUNDARIES.

Be it enacted, etc., as follows:

Chapter 322 of the acts of 1873 is hereby amended by inserting after section 5 the following section:-

Section 5A. The city of Westfield may supply water to cities, towns and districts upon such terms, including terms pertaining to quantity and quality, as may be agreed upon by said city of Westfield and each city, town or district so supplied. Any contract containing the terms agreed to shall conform to the requirements of section 4A of chapter 40 of the General Laws or its successor statute, governing intermunicipal agreements. If such statute no longer exists at the time of contract formation, said city of Westfield may enter into a contract if authorized by the city council and approved by the mayor.

Approved December 24, 1998

Chapter 427. AN ACT AUTHORIZING THE RETIREMENT BOARD OF THE CITY OF SPRINGFIELD TO PAY A CERTAIN RETIREMENT BENEFIT TO THE SURVIVING SPOUSE OF FORMER FIREFIGHTER DANIEL LAWLER.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 9 of chapter 32 of the General Laws or any other general or special law to the contrary, and for the purpose of promoting the public good, the retirement board of the city of Springfield shall pay to Eleanor Lawler, the surviving spouse of Daniel Lawler, a former firefighter of said city, a pension equal to that which she would have received had section 100 of said chapter 32 been in effect at the time of the death of said Daniel Lawler. Said payments shall become effective on the first payment date after the effective date of this act and shall not be retroactive.

SECTION 2. This act shall take effect upon its passage.

Approved December 24, 1998

Chapter 428. AN ACT AUTHORIZING THE RETIREMENT BOARD OF THE CITY OF SPRINGFIELD TO PAY A CERTAIN RETIREMENT BENEFIT TO THE SURVIVING SPOUSE OF FORMER POLICE OFFICER WALTER C. JUSKIEWICZ.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 9 of chapter 32 of the General Laws or any other general or special law to the contrary, and for the purpose of promoting the public good, the retirement board of the city of Springfield shall pay to Wanda Y. Juskiewicz, the surviving spouse of Walter C. Juskiewicz, a former police officer of said city, a pension equal to that which she would have received had section 100 of said chapter 32, as currently in effect, been in effect at the time of the death of said Walter C. Juskiewicz.

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Said payments shall become effective on the first payment date after the effective date of this act and shall not be retroactive.

SECTION 2. This act shall take effect upon its passage.

Approved December 24, 1998.

Chapter 429. AN ACT AUTHORIZING THE TOWN OF HAMPDEN TO BORROW MONEY FOR THE PAYMENT OF CERTAIN LEGAL EXPENSES AND SETTLEMENT COSTS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Hampden is hereby authorized to borrow from time to time such sums of money as may be necessary, not to exceed an aggregate amount of \$150,000, for the purpose of paying certain engineering and legal expenses and settlement costs incurred by the town in connection with litigation relating to the town's water supply, and may issue bonds or notes therefor. Each authorized issue shall constitute a separate loan and each such loan shall be payable within five years from its date. Indebtedness incurred under this act shall not be included in determining the limit of indebtedness of the town under section 10 of chapter 44 of the General Laws, but except as provided herein, shall otherwise be subject to the provisions of that chapter.

SECTION 2. The vote of the town passed under Article 1 of the special town meeting held on October 26, 1998, authorizing borrowing for engineering and legal expenses and settlement costs in connection with litigation relating to the town's water supply, is hereby ratified, validated and confirmed.

SECTION 3. This act shall take effect upon its passage.

Approved December 24, 1998.

Chapter 430. AN ACT RELATIVE TO THE BROCKTON 21ST CENTURY CORPORATION.

Be it enacted, etc., as follows:

SECTION 1. Chapter 137 of the acts of 1993 is hereby amended by striking out section 3 and inserting in place thereof the following section:-

Section 3. The members of the corporation are hereby constituted a body corporate under the name of the Brockton 21st Century Corporation. Said corporation shall be subject to and have the powers and privileges conferred by the provisions of chapter 180 of the General Laws except insofar as said provisions are inconsistent with or otherwise restricted or limited by the provisions of this act.

SECTION 2. The fourth paragraph of section 5 of said chapter 137 is hereby amended by striking out, in line 4, the word ", stockholders".

SECTION 3. Section 6 of said chapter 137 is hereby repealed.

SECTION 4. Section 7 of said chapter 137 is hereby amended by striking out, in line 9, the word "stocks,".

SECTION 5. Section 9 of said chapter 137 is hereby amended by striking out, in lines 1 and 3, the word "shareholders", each time it appears, and inserting in place thereof, in each instance, the following word:- members.

SECTION 6. Section 11 of said chapter 137 is hereby amended by striking out, in line 7, the word "shareholders" and inserting in place thereof the following word:- members.

SECTION 7. Said chapter 137 is hereby further amended by striking out section 15 and inserting in place thereof the following section:-

Section 15. The corporation shall not be subject to any of the provisions of chapter 63 of the General Laws, nor shall said corporation be liable for any taxes based upon or measured by income. The securities and evidences of indebtedness issued by said corporation shall be free from taxation by the commonwealth.

SECTION 8. Section 16 of said chapter 137 is hereby repealed.

SECTION 9. Section 17 of said chapter 137 is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

This charter may be amended by the affirmative vote of two-thirds of the members entitled to vote; provided, however, that no such amendment which is inconsistent with the general purposes expressed herein or which eliminates or restricts the right of the state secretary to examine the corporation or the obligation of said corporation to make reports as provided in section 13 shall be made without the approval of the general court; and provided, further, that no amendment of this charter which affects a member's voting right shall be made without the consent of such member affected by such amendment.

SECTION 10. Said section 17 of said chapter 137 is hereby further amended by striking out the third paragraph.

SECTION 11. Said chapter 137 is hereby further amended by striking out section 18 and inserting in place thereof the following section:-

Section 18. The corporation may, upon the affirmative vote of two-thirds of its members, petition for its dissolution by order of the supreme judicial or superior court, in the manner provided in section 11A of chapter 180 of the General Laws.

SECTION 12. Section 19 of said chapter 137 is hereby amended by striking out, in line 1, the word "three" and inserting in place thereof the following word:- six.

SECTION 13. The corporation shall merge with Brockton 21st Century Corporation previously organized under the provisions of chapter 180 of the General Laws by filing an agreement of merger with the state secretary under the provisions of section 10 of said chapter 180.

Approved December 24, 1998

**Chapter 431. AN ACT AUTHORIZING THE TOWN OF SHARON TO ISSUE
LICENSES TO CERTAIN ESTABLISHMENTS FOR THE SALE OF
ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE
PREMISES**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any limitations imposed by section 11 of chapter 138 of the General Laws as to the time and manner of voting or the provisions of any other general or special law to the contrary, the licensing authority of the town of Sharon may issue to restaurants and function rooms with seating capacities of not less than 50 persons licenses to sell all alcoholic beverages to be drunk on the premises.

SECTION 2. This act shall be submitted for its acceptance to the qualified voters of the town of Sharon at the annual town meeting in the form of the following question which shall be placed upon the official ballot: "Shall an act passed by the general court in the year 1998, entitled 'An Act authorizing the town of Sharon to issue licenses to certain establishments for the sale of all alcoholic beverages to be drunk on the premises', be accepted?"

If a majority of the votes cast in answer to said question is in the affirmative, this act shall take effect but not otherwise.

SECTION 3. This act shall take effect upon its passage.

Approved December 24, 1998.

**Chapter 432. AN ACT RELATIVE TO GROUP MARKETING PLANS FOR
AUTOMOBILE AND HOMEOWNERS INSURANCE.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to waive forthwith the participation requirement for group marketing plans for calendar year 1999, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

A group marketing plan approved and in effect, pursuant to section 193R of chapter 175 of the General Laws, during calendar year 1998 may be approved upon renewal, notwithstanding that less than 35 per cent of the members of such plan are insured during calendar year 1999.

Approved December 24, 1998.

Chapter 433. AN ACT VALIDATING THE ACTIONS TAKEN AT A SPECIAL TOWN MEETING OF THE TOWN OF DARTMOUTH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the acts and proceedings taken by the town of Dartmouth at its special town meeting held on February 26, 1998, including the action taken in Article 1 entitled, "Funding For The Construction of a New High School and Formulation of a Building Committee", and all actions subsequently taken pursuant thereto, including the town election held on April 6, 1998, are hereby ratified, validated and confirmed to the same extent as if they all had been in full compliance with law.

SECTION 2. This act shall take effect upon its passage.

Approved December 24, 1998

Chapter 434. AN ACT INCREASING THE NUMBER AND AMENDING THE METHOD OF ELECTION OF MEMBERS OF THE SCHOOL COMMITTEE OF THE CITY OF MALDEN.

Be it enacted, etc., as follows:

SECTION 1. Section 24 of chapter 169 of the acts of 1881 is hereby amended by striking out the first five sentences and inserting in place thereof the following five sentences:- The school committee of the city of Malden shall consist of nine members, one of whom shall be the mayor, and one other member to be elected from each ward by and from the registered voters of that ward; but no person shall be eligible for membership on the committee who is not an inhabitant of the city. With the exception of the mayor, who shall serve commensurate with his term as mayor and until a successor is qualified, all members shall be elected to serve for two municipal years from the first Monday in January next following their election until their successors are qualified. The school committee members shall serve with such compensation as determined by municipal ordinance and the mayor shall be chairman of the committee. The committee may choose from among its members or otherwise, a secretary, to be under the direction and control of said committee, and may appoint, but not from among its members, a superintendent of the schools. The compensation of such secretary and superintendent shall be determined from year to year by the school committee and it may remove such secretary and superintendent at its pleasure.

SECTION 2. The sixth sentence of said section 24 of said chapter 169, as appearing in section 3 of chapter 255 of the acts of 1964, is hereby amended by striking out the words "a registered voter of the city" and inserting in place thereof the following words:- a registered voter of the ward.

SECTION 3. The seventh sentence of said section 24 of said chapter 169, as so appearing, is hereby amended by striking out the words "a registered voter of the city" and inserting in place thereof the following words:- a registered voter of the ward.

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SECTION 4. Candidates for election to the school committee of the city of Malden shall be nominated in accordance with the requirements of chapter 53 of the General Laws; provided, however, that nomination papers of candidates for the office of ward school committee member shall be signed in the aggregate by not less than 50 voters qualified to vote in said ward in the next municipal election; and provided, further, that if a majority of the votes cast in answer to the question provided for in this act and the question provided for by chapter 264 of the acts of 1998 are both in the affirmative, the provisions of this section shall prevail with respect to the number of signatures required for nomination to the school committee.

SECTION 5. Upon the organization of the school committee elected under and in accordance with the provisions of this act, the terms of office of the members of the present school committee shall terminate and their powers and duties shall cease. The school committee elected under and in accordance with the provisions of this act shall be the lawful successors of the present school committee, and shall be entitled to all the powers and privileges conferred and subject to the duties and obligations imposed by said chapter 169 of the acts of 1881, as amended.

SECTION 6. Chapter 113 of the acts of 1908 is hereby repealed.

SECTION 7. Section 3 of chapter 155 of the acts of 1933 is hereby repealed.

SECTION 8. This act shall be submitted to qualified voters of the city of Malden at the municipal election to be held in 1999, in the form of the following question which shall be placed upon the official ballot to be used at said election: "Shall an act passed by the general court in 1998 entitled 'An Act increasing the number and amending the method of election of members of the school committee of the city of Malden', be accepted?" If a majority of the votes cast on said question is in the affirmative, this act shall take effect at the municipal election in the year 2001.

Approved January 7, 1999.

**Chapter 435. AN ACT DIRECTING THE SOMERVILLE RETIREMENT BOARD
TO RETIRE SEAN J. CANTY, A POLICE OFFICER OF THE CITY
OF SOMERVILLE.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the Somerville retirement board is hereby authorized and directed to retire Sean J. Canty, a police officer of the city of Somerville, who, as a result of injuries sustained while in the performance of his duties on July 15, 1997, is totally and permanently incapacitated from further service as a police officer, upon determination in accordance with the procedures and requirements of section 7 of chapter 32 of the General Laws that such member is unable to perform the essential duties of his job and that such inability is likely to be permanent and that he should be so retired.

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The annual amount of pension payable to Sean J. Canty shall be fixed in an amount equal to the regular rate of compensation which would have been paid had he continued in service as a police officer of said city at the grade held by him at the time of his retirement. Such retirement shall become effective as of the date following the last day on which he received regular compensation. Upon such retirement, the Somerville retirement board shall forthwith pay to him the amount credited to him as accumulated total deductions in the annuity savings of the Somerville retirement system.

SECTION 2. Said Sean J. Canty shall be entitled to receive such indemnification for all hospital, medical and related expenses that have been or may be, incurred after the date of his retirement as a result of the injuries sustained by him while in the performance of his duties, according to the provisions of section 100 of chapter 41 of the General Laws.

SECTION 3. Upon the death of said Sean J. Canty, should his wife survive him, the Somerville retirement board shall pay to her monthly, an annuity in the amount of three-fourths of the amount of the pension payable to him at the time of his death.

SECTION 4. This act shall take effect upon its passage.

Approved January 7, 1999.

Chapter 436. AN ACT AUTHORIZING THE TOWN OF COHASSET WATER DEPARTMENT TO PROVIDE WATER SERVICES TO OTHER CITIES, TOWNS AND WATER COMPANIES.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 128 of the acts of 1886, as amended by section 1 of chapter 489 of the acts of 1946, is hereby further amended by adding the following paragraph:-

The board of water commissioners may enter into contracts with or provide aid to a city, town, commission, district or company as defined in section 1 of chapter 165 of the General Laws with regard to the operation, administration, repair and maintenance of its water supply system. Such contracts may be made to provide water to such entity on an emergency basis or to provide water service on a long term basis to one or more residents or users of such entity who cannot be reasonably provided water supply services by such entity but shall not include the long term wholesale sale of water to another entity other than for an emergency or to provide water service on a long term basis to residents who cannot be reasonably provided water supply services by such entity. Any such contract may be for a period not to exceed 20 years.

SECTION 2. This act shall take effect upon its passage.

Approved January 9, 1999.

Chapter 437. AN ACT AUTHORIZING THE TOWN OF EASTHAM TO ESTABLISH AN EASTHAM PROMOTIONS FUND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Eastham may establish a special account to be known as the Eastham Promotions Fund into which account shall be deposited certain receipts which comprise a portion of the local room occupancy excise received annually by said town under the provisions of section 3A of chapter 64G of the General Laws as set forth in section 2. Said fund shall be maintained as a separate account in the town treasury.

SECTION 2. For the purpose of establishing that portion of the local room occupancy excise that may be deposited in the Eastham Promotions Fund, the town of Eastham may deposit, commencing in fiscal year 1999, \$10,000 from said excise receipts, and the same amount in each subsequent fiscal year, unless said amount is increased by the board of selectmen. All interest earned from said fund shall be deposited in the general fund of said town.

SECTION 3. There is hereby established in the town of Eastham a visitors tourism and promotion services board consisting of five members to be appointed by the board of selectmen as follows: two members nominated by the Eastham chamber of commerce, one member nominated by the Eastham forum, and two members at large. If any of the organizations with nominating privileges hereunder cease to exist or operate, said board of selectmen may appoint in place of such nominees individuals qualified to serve on said visitors services board, as appointees-at-large. Said board of selectmen shall fill any vacancies in said visitors tourism and promotion services board in like manner.

SECTION 4. Said visitors service board shall recommend to the annual town meeting, programs and projects that enhance the beautification, recreational resources, public safety promotional and marketing activities, events, services, and public improvements which are of clear mutual interest to the residents and visitors of the town of Eastham, and which strengthen said town as an attractive center for tourism, conventions, and related purposes of the visitor industry. The cost of such programs shall not exceed the funds available in the Eastham Promotions Fund, and shall be used for public improvements, including beautification, recreational resources, and public safety related to the mutual needs of visitors and residents with the balance available for promotional programs and projects.

SECTION 5. Upon approval of the programs, services and other projects set forth in section 4, the visitors tourism and promotion services board with the approval of the town administrator may expend from said special revenue fund for the uses authorized by town meeting, and may for the purposes of this section designate funds to be expended under the direction of the Eastham department of public works or other town agency as applicable; or obtain competitive proposals or bids for any services, programs or projects to be provided by the town by vendor contracts, all in accordance with the requirements of chapter 30B of the General Laws or any other general law governing public bidding and procurement as may

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apply to the program or project. Contracts for services, programs and projects authorized hereunder shall be awarded and executed by the town administrator on the recommendation of the visitors tourism and promotion services board subject to compliance with applicable procurement laws of the commonwealth.

SECTION 6. This act shall take effect as of January 1, 1999.

Approved January 9, 1999.

Chapter 438. AN ACT AUTHORIZING THE ACCEPTANCE OF STREETS IN THE TOWN OF TOLLAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 23 of chapter 82 of the General Laws or any other general or special law to the contrary, the town of Tolland is hereby authorized to accept the streets listed in Article 1 of the special town meeting of said town held on March 10, 1998.

SECTION 2. This act shall take effect upon its passage.

Approved January 9, 1999.

Chapter 439. AN ACT PROVIDING FOR AN ELECTED BOARD OF SEWER COMMISSIONERS IN THE TOWN OF KINGSTON.

Be it enacted, etc., as follows:

SECTION 1. There is hereby established in the town of Kingston a board of sewer commissioners consisting of three members who shall be elected at the next annual or special town election, whichever first occurs. Of the initial members one shall be elected for a term of three years, one for a term of two years and one for a term of one year. Thereafter, each member shall be elected for a term of three years. Said board shall assume all statutory and other duties associated with sewer commissioners including those currently and hereafter assigned by the board of selectmen of said town.

SECTION 2. Chapter 136 of the acts of 1997 is hereby repealed.

SECTION 3. Section 2 shall take effect upon the election of the members of the board of sewer commissioners as provided in section 1.

Approved January 9, 1999.

Chapter 440. AN ACT AUTHORIZING THE TOWN OF EASTHAM TO ESTABLISH A LAND ACQUISITION AND MAINTENANCE FUND.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of Eastham may establish and maintain a special account to be known as the Land Acquisition and Maintenance Fund and may raise and appropriate money and receive gifts therefor. Said fund shall be maintained as a separate account by the treasurer of said town. Said fund shall be used for the acquisition and maintenance of open space and recreational land, which land shall be under the care and control of the board of selectmen of said town. Said town may appropriate money from said fund by a two-thirds vote of a special or annual town meeting after recommendation of said board of selectmen for the purchase or maintenance of such land.

Approved January 9, 1999.

Chapter 441. AN ACT ESTABLISHING A CAPITAL PROJECTS FUND IN THE TOWN OF WAKEFIELD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Wakefield may establish and maintain a fund to be known as the Capital Projects Fund, which shall be kept separate and apart from all other accounts of the town. The town treasurer shall be the custodian of the Capital Projects Fund and may invest amounts in said fund in accordance with the provisions of section 54 or 55 of chapter 44 of the General Laws. Any earnings, income and interest therefrom shall be credited to and become part of said fund.

SECTION 2. The town may appropriate amounts as deposits into the Capital Projects Fund from any available source by majority vote at any special or annual town meeting. In addition, an amount from the annual tax levy amounting to \$1,000,000 shall be deposited to the Capital Projects Fund by the town treasurer, subject to the approval of the board of selectmen, each fiscal year without further appropriation by town meeting. The aggregate amount of the Capital Projects Fund at any time shall not exceed 10 per cent of the equalized value of the town of Wakefield as defined in section 1 of chapter 44 of the General Laws; the town treasurer shall reduce the amount otherwise dedicated from the annual tax levy to accomplish this limitation.

SECTION 3. Amounts in the Capital Projects Fund shall be used in any fiscal year to reduce the amount in the tax levy for such fiscal year to pay principal of and interest on long-term debt of the town maturing or due in such fiscal year, which debt was incurred under section 7 or 8 of chapter 44 of the General Laws. The amount to be so used shall not exceed \$1,000,000 in any fiscal year without additional appropriation by town meeting and

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shall be determined by the town treasurer, subject to the approval of the board of selectmen, on or prior to August 1 of each fiscal year and notice of such amount shall be given to the town assessors within ten days of the determination. Such amount shall be used without further appropriation by the town assessors to reduce the amount otherwise to be assessed for such fiscal year pursuant to section 23 of chapter 59 of the General Laws. In addition, the town may appropriate money from the Capital Projects Fund by a two-thirds vote at any special or annual town meeting for any purpose for which the town would be authorized to borrow money under said section 7 or 8 of said chapter 44.

SECTION 4. This act shall take effect upon its passage.

Approved January 9, 1999.

Chapter 442. AN ACT RELATIVE TO THE REGULATION OF DOGS IN THE TOWN OF SEEKONK.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 157 of chapter 140 of the General Laws, the town administrator of the town of Seekonk or his designee shall have the powers and duties to the board of selectmen under the provisions of said section 157 of said chapter 140.

SECTION 2. This act shall take effect upon its passage.

Approved January 13, 1999.

Chapter 443. AN ACT AUTHORIZING THE TOWN OF HOLBROOK TO ESTABLISH A BETTERMENT RESERVE FUND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Holbrook is hereby authorized to establish a separate fund to be known as the betterment reserve fund, which shall be kept separate and apart from all other monies of said town by the town treasurer and in which shall be deposited all betterment payments received by said town. The treasurer may invest such funds in the manner authorized by sections 54 and 55 of said chapter 44. The principal and interest thereon shall be reserved for appropriation for the p said town's betterment debt. Any excess in said fund may be transferred to the general fund of said town.

SECTION 2. This act shall take effect upon its passage.

Approved January 13, 1999.

Chapter 444. AN ACT RELATIVE TO THE REJECTION OF CERTAIN APPOINTMENTS MADE BY THE TOWN ADMINISTRATOR OF THE TOWN OF STONEHAM.

Be it enacted, etc., as follows:

Chapter 26 of the acts of 1981 is hereby amended by striking out section 13, as appearing in section 4 of chapter 296 of the acts of 1994, and inserting in place thereof the following section:-

Section 13. The town administrator shall appoint the town treasurer, tax collector and all other town officials whose appointment or election is not specifically provided for herein. The town administrator shall appoint and may remove subject to the civil service law, where applicable, all department heads, all officers and subordinates and employees for whom no other method of appointment is provided in this act. Appointments to permanent positions made by the town administrator shall become effective seven working days following the date on which notice of appointment is filed with the board of selectmen, unless the board of selectmen shall, within said seven days, by a majority vote of the full board, vote to reject any such appointment.

Approved January 13, 1999.

Chapter 445. AN ACT RELATIVE TO THE DATE OF TOWN ELECTIONS IN THE TOWN OF STOUGHTON.

Be it enacted, etc., as follows:

SECTION 1. The charter of the town of Stoughton, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 8-1 and inserting in place thereof the following section:-

Section 8-1. Time of Elections.

Regular town elections for elective offices specified in this charter and for other elective offices as required by the General Laws shall be held 27 days before the annual town meeting. The polls shall not close before 8:00 p.m.

SECTION 2. This act shall be submitted to the voters of the town of Stoughton at an annual or special town election in the form of the following question which shall be placed on the official ballot to be used for the election of town officers "Shall an act passed by the general court in the year 1998, entitled 'An Act relative to the date of town elections in the town of Stoughton', be accepted?"

If a majority of the votes cast in answer to this question is in the affirmative, this act shall become effective, but not otherwise.

Approved January 13, 1999.

Chapter 446. AN ACT AUTHORIZING THE CITY OF GLOUCESTER TO PAY CERTAIN UNPAID BILLS.

Be it enacted, etc., as follows:

The city treasurer of the city of Gloucester is hereby authorized to pay from available funds the sum of \$7,597.19 for goods and services furnished to the school department of said city, said bills being legally unenforceable against said city and on a list on file in the office of the city auditor of said city.

Approved January 13, 1999.

Chapter 447. AN ACT RELATIVE TO FILLING VACANCIES IN THE OFFICE OF MAYOR OF THE CITY OF CHICOPEE.

Be it enacted, etc., as follows:

Section 7 of chapter 239 of the acts of 1897, as amended by chapter 132 of the acts of 1898, is hereby further amended by striking out the first two sentences and inserting in place thereof the following four sentences:- If it shall appear that there is no choice of a mayor, or if the person elected mayor shall refuse to accept the office, or shall die before qualifying, or if a vacancy in said office shall occur within the first year of the mayoral term, the board of aldermen shall forthwith call for a new election and the same proceedings shall be had in all respects as are hereinbefore provided for the election of mayor. Upon the election, the person so elected shall assume office and be sworn to the faithful discharge of their duties, immediately, to complete the unexpired term. In case a vacancy in the office of the mayor shall occur within the second year of the mayoral term, the president of the board of aldermen shall assume the duties of the office of the mayor. Thereafter, upon the certification by the city clerk at the biennial election, the person so elected mayor shall immediately assume the duties of mayor for the remainder of the unexpired term and on the first Monday of January next ensuing be sworn in to the office of mayor to begin their term of office.

Approved January 13, 1999.

Chapter 448. AN ACT DESIGNATING THE SOUTH STATION TRANSPORTATION CENTER BUS TERMINAL IN BOSTON AS THE JOHN J. "HAPPY" COOMBS TERMINAL.

Be it enacted, etc., as follows:

The Massachusetts Bay Transportation Authority shall install and maintain a plaque at the South Station Transportation Center Bus Terminal in the city of Boston, in honor and in memory of John J. "Happy" Coombs.

Approved January 13, 1999.

Chapter 449. AN ACT AUTHORIZING THE CITY OF NEW BEDFORD TO ESTABLISH AND MAINTAIN AN ENVIRONMENTAL ASSESSMENT REVOLVING FUND AND ESTABLISHING AN ENVIRONMENTAL ASSESSMENT LIEN TO SECURE REPAYMENT OF FUNDS EXPENDED FROM SAID REVOLVING FUND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the city of New Bedford is hereby authorized to establish and maintain a fund to be known as the Environmental Assessment Revolving Fund, which shall be kept separate and apart from all other accounts of the city. The city treasurer shall be the custodian of said fund and may deposit the proceeds or invest the same in accordance with the provisions of section 54 or 55 of chapter 44 of the General Laws. Interest earned thereon shall be credited to and become a part of said fund.

SECTION 2. The city of New Bedford may appropriate money in any year into the Environmental Assessment Revolving Fund from any available source including monies received from the commonwealth, the United States government or other source.

SECTION 3. The city of New Bedford may expend monies from the Environmental Assessment Revolving Fund to perform environmental assessments on any parcel of land located in said city which is either a municipally owned parcel of land, a tax possession, or a parcel on which said city holds a tax title.

SECTION 4. There shall be established in the city of New Bedford an environmental assessment lien which shall be attached to any parcel of land on which said city has expended funds from the Environmental Assessment Revolving Fund to secure repayment of said funds. Said environmental assessment lien shall be enforceable in the same manner as liens pursuant to section 3A of chapter 139 of the General Laws and section 9 of chapter 143 of the General Laws.

SECTION 5. The city of New Bedford is authorized to promulgate and enforce procedures relative to the expenditure of funds from the Environmental Assessment Revolving Fund and relative to the placement and enforcement of the environmental assessment lien.

Approved January 13, 1999.

Chapter 450. AN ACT AUTHORIZING THE ISSUANCE OF CERTAIN TEMPORARY LICENSES FOR THE SALE OF WINES TO BE DRUNK ON THE PREMISES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the issuance of certain temporary licenses for the sale of wines to be drunk on the premises, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Chapter 153 of the acts of 1997 is hereby amended by striking out section 3 and inserting in place thereof the following three sections:-

Section 3. Notwithstanding the provisions of any general or special law to the contrary, the local licensing authority in a city or town which votes to authorize the granting of licenses for the sale of an alcoholic beverage may, with the approval of the alcoholic beverages control commission, grant temporary licenses for the sale of wines to be drunk on the premises, to applicants which are nonprofit charitable corporations organized under chapter 180 of the General Laws and registered with the public charities division of the office of the attorney general. Each such temporary license shall describe the premise to which it applies and shall be granted only for premises which are either the principal place of business or headquarters of the applicant and which are legally zoned to allow such sales or which are the premises of a licensee under section 12 of chapter 138 of the General Laws. No such temporary license shall be for a duration of more than ten consecutive calendar days and no holder of any such temporary license shall be granted more than two such licenses in a calendar year. The fee for such temporary license shall not exceed the minimum fee provided for holders of licenses to sell wine. A holder of a temporary license for such sale of wine shall be permitted to conduct such sales on any day and at any time permitted under said section 12 of said chapter 138. Any wine sold under this section shall be donated at no charge to the license holder and any wine donated may be dispensed by the employees or agents of the donors of the wine, without compensation for the dispensing services provided. All proceeds from such sales shall be used for the holder's charitable purpose.

The application procedures under section 15A of said chapter 138 shall not apply to temporary licenses for such sale of wine; provided, however, that such applications may be granted by the local licensing authority according to the local procedures for granting licenses under section 14 of said chapter 138. Local licensing authorities may impose conditions as to the hours of operation of such sales of wine and such other terms and conditions as may be deemed to be necessary and reasonable.

Section 4. Notwithstanding the provisions of any general or special law to the contrary, the local licensing authority in a city or town which votes to authorize the granting of licenses for the sale of an alcoholic beverage may, with the approval of the alcoholic beverages control commission, grant temporary licenses for the sale of wine to be drunk on the premises, to joint applicants which consist of one or more nonprofit charitable corporations organized under chapter 180 of the General Laws and registered with the public charities division of the office of the attorney general and a licensee under section 12 of chapter 138 of the General Laws. Each such temporary license shall describe the premises to which it applies and shall be granted only for the premises which are the premises of the joint applicant which is a licensee under said section 12 of said chapter 138. No such temporary license shall be for a duration of more than ten consecutive calendar days and no holder of any such temporary license granted such temporary licenses permitting such sales

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on an aggregate of more than 20 days in any calendar year. The fee for such temporary license shall not exceed the minimum fee provided for holders of licenses to sell wine. A holder of a temporary license for the sale of wine to be drunk on the premises shall be permitted to conduct such sales on any day and at any time permitted under said section 12 of said chapter 138. Any wine sold under this section may be donated at no charge to the license holder and any wine donated may be dispensed by the employees or agents of the donor of the wine, without compensation for the dispensing services provided. A majority of the proceeds from such sales shall be used for the nonprofit charitable corporation holder's charitable purposes.

The application procedures under section 15A of said chapter 138 shall not apply to such temporary licenses for the sale of wines to be drunk on the premises; provided, however, applications may be granted by the local licensing authority according to the local procedures for granting licenses under section 14 of said chapter 138. Local licensing authorities may impose conditions as to the hours of operation of such temporary licenses for the sale of wine and such other terms and conditions as may be deemed to be necessary and reasonable.

Section 5. This act shall become inoperative on January 1, 2003.

Approved January 13, 1999.

**Chapter 451. AN ACT AUTHORIZING THE IMPOSITION OF FEES FOR THE
EMPLOYMENT OF CERTAIN OUTSIDE CONSULTANTS BY THE
TOWN OF EAST LONGMEADOW.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the planning board of the town of East Longmeadow may, upon the promulgation in accordance with the provisions of this act of rules or regulations, provide for the imposition of reasonable fees for the employment of outside consultants. Such fees shall be deposited in a special account for the review of petitions or applications required by state or federal law or local by-laws including zoning by-laws filed with it for review or approval. Said rules or regulations shall provide for an administrative appeal from the selection of the outside consultant to the board of selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or related field. The required time limits for action upon an application or petition by municipal permit granting board shall be extended by the duration of the administrative appeal. In the event that no decision is made by said board of selectmen within one month following the filing of the appeal, the selection made by said planning board shall stand. Such an administrative appeal

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shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in this act. Any such account shall be established by the town treasurer and shall be kept separate and apart from the other monies. The special account, including accrued interest, if any, shall be expended at the direction of said planning board without further appropriation; provided, however, that such funds are to be expended by it only in connection with carrying out its responsibilities under law. Any excess amount in the account attributable to a specific project, including any accrued interest, at the completion of said project shall be repaid to the applicant or to the applicant's successor in interest and a final report of said account shall be made available to the applicant or to the applicant's successor in interest. The town accountant shall submit annually a report of said special account to said board of selectmen to review. Said report shall be published in the town report. Said town accountant shall submit annually a copy of said report to the director of the bureau of accounts.

SECTION 2. This act shall take effect upon its passage.

Approved January 14, 1999.

**Chapter 452. AN ACT GRANTING AN EASEMENT TO THE HOLYOKE
COMMUNITY COLLEGE FOUNDATION.**

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, the commissioner of the division of capital asset management and maintenance may grant an easement to the Holyoke Community College Foundation, or its tenants, for the use of roadways at Holyoke Community College to access 32 acres of land adjacent to said community college.

Approved January 14, 1999.

**Chapter 453. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS AND
NOTES ISSUED BY THE COMMONWEALTH.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to facilitate forthwith the issuance of bonds and notes to carry out the purposes of certain acts passed by the general court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 3 of chapter

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257 of the acts of 1998 shall be issued for a term not to exceed 20 years; provided, however, that all such bonds shall be payable by June 30, 2025, as recommended by the governor in a message to the general court dated October 7, 1998, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the notes which the state treasurer is authorized to issue under section 4 of chapter 257 of the acts of 1998 shall be issued, and may be renewed one or more times, for terms not exceeding one year, and the final maturities of such notes, whether original or renewal, shall be not later than June 30, 2005, as recommended by the governor in a message to the general court dated October 7, 1998, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 3 of chapter 289 of the acts of 1998 shall be issued for a term not to exceed 20 years; provided, however, that all such bonds shall be payable by June 30, 2019, as recommended by the governor in a message to the general court dated October 7, 1998, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 4. Notwithstanding the provisions of any general or special law to the contrary, the notes which the state treasurer is authorized to issue under section 4 of chapter 289 of the acts of 1998 shall be issued, and may be renewed one or more times, for terms not exceeding one year, and the final maturities of such notes, whether original or renewal, shall be not later than June 30, 2004, as recommended by the governor in a message to the general court dated October 7, 1998, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

Approved January 14, 1999.

**Chapter 454. AN ACT AUTHORIZING THE CITY OF HOLYOKE TO ISSUE
CERTAIN PENSION OBLIGATION BONDS.**

Be it enacted, etc., as follows:

SECTION 1. The city of Holyoke is hereby authorized to issue, at one time or from time to time, bonds or notes for the purpose of funding the unfunded pension liability, so-called, of the retirement system of said city. The proceeds of any such issuance shall be transferred by said city to said retirement system. The terms of such bonds or notes shall not exceed 30 years from the date of issuance and the amount of any such bonds or notes shall be considered as outside the limit of indebtedness prescribed in section 10 of chapter 44 of the General Laws. No such bonds or notes shall be issued without the approval of the city council of a loan order adopted by a two-thirds vote upon a recommendation of the mayor. After the city council has approved the loan order, the mayor shall submit such order and a

plan demonstrating how the city will finance and allocate the debt service associated with such bonds or notes to the executive office for administration and finance and no bonds or notes authorized by this act shall be issued until the secretary of administration and finance has approved such plan. Except as otherwise provided herein, such bonds or notes shall be subject to the provisions of said chapter 44.

SECTION 2. The aggregate principal amount of the bonds or notes issued under authority hereof shall not be greater than the amount sufficient to extinguish the unfunded pension liability of the retirement system of the city of Holyoke as determined in accordance with this section. The retirement board of said city shall first determine the amount sufficient to extinguish the unfunded pension liability of the retirement system of said city in accordance with the report of a nationally recognized independent consulting firm, which may be the consulting actuary generally retained by said retirement board and with the approval of the public employee retirement administration commission. Such report shall also set forth the present value savings to the city reasonably expected to be achieved as a result of the issuance of such bonds or notes and shall be transmitted to the city council prior to final passage of any order authorizing the issuance of bonds or notes hereunder. In making the initial recommendation to the city council to adopt a loan order authorizing the issuance of bonds or notes under authority of this act, the mayor of said city shall indicate his approval of the aggregate principal amount of the bonds or notes as determined by said retirement board.

SECTION 3. The maturities of such bonds or notes shall be scheduled such that the annual combined payments of principal and interest for each issue shall be as nearly equal as practicable in the opinion of the mayor; provided, however, that the maturities of such bonds or notes may be scheduled so as to provide a more rapid amortization of principal.

SECTION 4. Each governmental unit, the employees of which are members of the retirement system of the city of Holyoke, shall be responsible in accordance with this section for paying such proportion of the annual debt service expense paid by said city for bonds issued under authority of this act as is equal to the proportion of the total unfunded pension liability of said retirement system allocated to such member under section 2. Notwithstanding the provisions of any general or special law to the contrary, the public employee retirement administration commission shall increase the annual amount to be certified under section 22 of chapter 32 of the General Laws as the amount necessary to be paid by each governmental unit in said retirement system other than said city by each such governmental unit's proportionate share of the annual debt service expense as determined herein and shall decrease the amount to be paid by said city by an equal amount. Said city shall have the same legal rights and authority as the retirement board of said city to collect any amount so assessed by the retirement board to any such governmental unit.

SECTION 5. The proceeds of any bonds or notes issued under authority of this act, other than amounts to be applied to issuance costs or other expenses, shall be transferred to the retirement system of the city of Holyoke, shall be allocated solely to reduce unfunded pension liability to which the bonds or notes relate, shall be invested in any investments

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which are permitted under chapter 32 of the General Laws, and shall otherwise be held and expended by the retirement board of the city of Holyoke in accordance with law

Approved January 14, 1999.

Chapter 455. AN ACT AUTHORIZING THE CITY OF EVERETT TO ISSUE CERTAIN PENSION OBLIGATION BONDS.

Be it enacted, etc., as follows:

SECTION 1. The city of Everett may issue, at one time or from time to time, bonds or notes for the purpose of funding the unfunded pension liability, so-called, of the retirement system of said city. The proceeds of any such issuance shall be transferred by said city to said retirement system. The term of any such bond or note shall not exceed 30 years from the date of issuance and the amount of any such bond or note shall be considered as outside the limit of indebtedness prescribed in section 10 of chapter 44 of the General Laws. No such bond or note shall be issued without the approval of the city council of a loan order adopted by a two-thirds vote upon a recommendation of the mayor. After the city council has approved the loan order, the mayor shall submit said order and a plan demonstrating how the city will finance and allocate the debt service associated with such bond or note to the executive office for administration and finance, and no bond or note authorized by this act shall be issued until the secretary of administration and finance has approved said plan. Except as otherwise provided herein such bond or note shall be subject to the provisions of said chapter 44.

SECTION 2. The aggregate principal amount of a bond or note issued under authority hereof shall not be greater than the amount sufficient to extinguish the unfunded pension liability of the retirement system of the city of Everett as determined in accordance with this section. The retirement board of said city shall first determine the amount sufficient to extinguish the unfunded pension liability of the retirement system of said city in accordance with the report of a nationally recognized independent consulting firm, which may be the consulting actuary generally retained by said retirement board and with the approval of the public employee retirement administration commission. Such report shall also set forth the present value savings to the city reasonably expected to be achieved as a result of the issuance of such bond or note and shall be transmitted to the city council prior to final passage of any order authorizing the issuance of a bond or note hereunder. In making the initial recommendation to the city council to adopt a loan order authorizing the issuance of a bond or note under authority of this act the mayor of said city shall indicate his approval of the aggregate principal amount of such bond or note as determined by said retirement board.

SECTION 3. The maturities of such bond or note shall be scheduled such that the annual combined payments of principal and interest for each issue shall be as nearly equal as practicable in the opinion of the mayor; provided, however, that the maturities of such bond or note may be scheduled so as to provide a more rapid amortization of principal.

SECTION 4. Every governmental unit, the employees of which are members of the retirement system of the city of Everett, shall be responsible in accordance with this section for paying such proportion of the annual debt service expense paid by said city for a bond issued under authority of this act as is equal to the proportion of the total unfunded pension liability of said retirement system allocated to such member under section 2.

Notwithstanding the provisions of any general or special law to the contrary, the public employee retirement administration commission shall increase the annual amount to be certified under section 22 of chapter 32 of the General Laws as the amount necessary to be paid by each governmental unit in said retirement system other than said city by each such governmental unit's proportionate share of the annual debt service expense as determined herein and shall decrease the amount to be paid by said city by an equal amount. Said city shall have the same legal rights and authority as the retirement board of said city to collect any amount so assessed by the retirement board to any such governmental unit.

Approved January 14, 1999.

Chapter 456. AN ACT RELATIVE TO GRANTING COST OF LIVING ADJUSTMENTS TO NONCONTRIBUTORY RETIREES.

Be it enacted, etc., as follows:

SECTION 1. Subdivision (1) of section 4 of chapter 32 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after paragraph (o) the following paragraph:-

(o½) Any member, eligible to receive a retirement benefit pursuant to the provisions of this chapter, who served as a library trustee for a city or town, in which position he received no compensation, may establish credit for such service by depositing in the annuity savings fund of the system of which he is a member a sum equal to the amount which would have been paid into such fund during such period if such position had been compensated at the rate of \$2,500 per year, plus regular interest to the date of payment. This paragraph shall apply only to persons who served as library trustees in a city or town that accepts this paragraph, in a town by vote of the annual town meeting and in a city by vote of the city council subject to the provisions of its charter.

SECTION 2. Section 102 of said chapter 32, as most recently amended by section 7 of chapter 17 of the acts of 1997, is hereby further amended by adding the following paragraph:-

(g) Whenever a cost of living adjustment is granted pursuant to said paragraph (a), a former employee, or spouse or other beneficiary of such employee, who is receiving a noncontributory pension from the commonwealth under the provisions of this chapter or under corresponding provisions of earlier laws or any other general or special law, shall receive the same cost of living adjustment from the commonwealth in accordance with the

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applicable provisions of this chapter or under corresponding provisions of earlier laws or any other general or special laws.

SECTION 3. Section 103 of said chapter 32, inserted by section 8 of said chapter 17 is hereby amended by adding the following paragraph:-

(h) Whenever a cost of living adjustment is granted pursuant to the provisions of paragraph (c), a former employee of a county, city, town, district, or authority, or spouse or other beneficiary of such employee, who is receiving a noncontributory pension from such governmental unit under the provisions of this chapter or under corresponding provisions of earlier laws or any general or special law, shall receive the same cost of living adjustment from such governmental unit in accordance with the applicable provisions of this chapter or under corresponding provisions of earlier laws or any other general or special law, if the legislative body of such governmental unit accepts this paragraph by a majority vote. For purposes of this paragraph, legislative body shall mean in the case of a city the city council in accordance with its charter, in the case of a town the town meeting, in the case of a county the county retirement board advisory council, in the case of a district the district members, and in the case of an authority the governing body.

SECTION 4. The provisions of section 2 shall apply to cost of living adjustments made on or after July 1, 1998.

SECTION 5. The provisions of section 3 may apply to cost of living adjustments made on or after July 1, 1998.

Approved January 14, 1999.

Chapter 457. AN ACT RELATIVE TO THE RETIREMENT ALLOWANCE OF JOHN B. LaCLAIR.

Be it enacted, etc., as follows:

The provisions of paragraph (b½) of subdivision (2) of section 7 of chapter 32 of the General Laws shall not apply to John B. LaClair of the city of Leominster who shall continue to his retirement allowance in the amount provided for in paragraph (a) of said subdivision (2) of said section 7 of said chapter 32.

Approved January 14, 1999.

Chapter 458. AN ACT AUTHORIZING THE TOWN OF DENNIS TO CONVEY A CERTAIN PARCEL OF LAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of paragraphs (c), (d), (e) and (f) of section 16 of chapter 30B of the General Laws, the town of Dennis, acting by and through

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its board of selectmen, may convey a certain parcel of land used for general municipal purposes in said town to the Dennis Development Corporation, a Massachusetts corporation organized under chapter 180 of the General Laws, for such consideration or no consideration, and on such other terms and conditions as the selectmen may determine and subject to the terms and conditions set forth in sections 2 to 4, inclusive. Said parcel of land consists of approximately one and one-half acres of land, which is a portion of land shown as parcel 31 on Assessors Map 264 and is a portion of the land described in a deed from the Friends of Dennis Senior Citizens, Inc. to the town of Dennis dated July 2, 1984, and recorded with the Barnstable county registry of deeds in Book 4175, Page 145.

SECTION 2. The parcel of land described in section 1 shall be used in conjunction with a one acre parcel of land to be deeded to Dennis Development Corporation by the Friends of Dennis Senior Citizens, Inc. for the purposes of constructing a facility for congregate elderly housing and adult day care.

SECTION 3. If the Dennis Development Corporation fails to obtain all the necessary permits and funding for the proposed facility within five years of the vote under Article 42 of the December 8, 1997 special town meeting of the town of Dennis or if the Friends of Dennis Senior Citizens, Inc. fail to transfer the adjacent one acre parcel to said Dennis Development Corporation within such time, the property described in section 1 shall revert to said town of Dennis. If said Dennis Development Corporation ceases doing business as a charitable corporation, dissolves or enters into bankruptcy proceedings, said property shall revert to said town.

SECTION 4. Upon any transfer of the property described in section 1, the town of Dennis shall have the first option to purchase said property.

SECTION 5. This act shall take effect upon its passage.

Approved January 14, 1999.

Chapter 459. AN ACT LIMITING THE LIABILITY OF ADULT FOSTER CAREGIVERS.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 258 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 31 and 32, the words "but solely with respect to claims against such caregiver by a child in the temporary custody and care of such caregiver for injury" and inserting in place thereof the following words:- with respect to claims against such caregiver by a child in the temporary custody and care of such caregiver or an adult in the care of such caregiver for injury or death.

SECTION 2. The definition of "Public employee" in said section 1 of said chapter 258, as so appearing, is hereby amended by adding the following sentence:- For this purpose,

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a caregiver of adults means a member of a foster family, or any other individual, who is under contract with an adult foster care provider as defined and certified by the division of medical assistance.

Approved January 14, 1999.

Chapter 460. AN ACT AUTHORIZING THE CERTIFICATION FOR APPOINTMENT OF EDWARD WLOCH AS A FIREFIGHTER IN THE TOWN OF WARE NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENT.

Be it enacted, etc., as follows:

The personnel administrator of the human resources division shall certify Edward Wloch for appointment as a firefighter in the town of Ware according to the grade he received on an examination for firefighter, notwithstanding the fact that he has attained the maximum age for such position, provided that said Edward Wloch fulfills all other requirements for certification and appointment as a firefighter.

Approved January 14, 1999.

Chapter 461. AN ACT AUTHORIZING THE DEPARTMENT OF REVENUE TO MAKE A CERTAIN REFUND.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary and for the purpose of discharging a moral obligation, the department of revenue may pay to Leo H. and Anne G. Fraser a sum of money, to be determined by said department, which was overpaid to said department in income taxes for the years 1986 to 1991, inclusive.

Approved January 14, 1999.

Chapter 462. AN ACT RELATIVE TO THE APPOINTMENT OF THE SUPERINTENDENT OF SCHOOLS IN THE CITY OF GLOUCESTER.

Be it enacted, etc., as follows:

SECTION 1. Clause (a) of the second paragraph of section 4-3 of the charter of the city of Gloucester, which is on file in the office of the archivist of the commonwealth as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking

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out the words "beginning in an even numbered year,".

SECTION 2. This act shall take effect upon its passage.

Approved January 14, 1999.

Chapter 463. AN ACT MAKING CERTAIN CORRECTIVE CHANGES IN CERTAIN GENERAL AND SPECIAL LAWS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make forthwith certain corrective changes in certain general and special laws, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Paragraph (b) of subsection (6) of section 66 of chapter 3 of the General Laws, as appearing in section 1 of chapter 138 of the acts of 1998, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The commission may accept and solicit funds, including any gifts, donations, grants or bequests or any federal funds, for any of the purposes of this section.

SECTION 2. Chapter 6 of the General Laws is hereby amended by inserting after section 15CCCC, inserted by chapter 359 of the acts of 1998, the following section:-

Section 15DDDD. The governor shall annually issue a proclamation setting apart March 8 as Lucy Stone Day and recommending that said day be observed in an appropriate manner by the people.

SECTION 3. Section 78A of said chapter 6 is hereby amended by striking out the words "the operational services division within the executive office of administration and finance", inserted by section 10 of chapter 161 of the acts of 1998, and inserting in place thereof the following words:- operational services division within the executive office of administration and finance.

SECTION 4. Section 121 of said chapter 6, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 71 and 72, the words "the workmen's compensation act," and inserting in place thereof the following words:- chapter 152.

SECTION 5. Section 168 of said chapter 6, as so appearing, is hereby amended by striking out, in line 3, the word "the", the second time it appears, and inserting in place thereof the following word:- , the.

SECTION 6. Section 178K of said chapter 6, as so appearing, is hereby amended by striking out, in lines 10 and 11, the words "one hundred and seventy-eight L" and inserting in place thereof the following figure:- 178M.

SECTION 7. Section 38A½ of chapter 7 of the General Laws, as so appearing, is hereby amended by inserting after the word "thereof", in line 59, the following words:- but not including the University of Massachusetts Building Authority.

SECTION 8. The first paragraph of section 39A of said chapter 7 is hereby amended by striking out paragraph (e), as so appearing, and inserting in place thereof the following paragraph:-

(e) "building authority", the University of Massachusetts Building Authority, the Massachusetts State College Building Authority or any other building authority which may be established for similar purposes;.

SECTION 9. The first paragraph of section 39B of said chapter 7 is hereby amended by striking out clause (d), added by section 19 of chapter 194 of the acts of 1998, and inserting in place thereof the following clause:-

(e) direction, control, supervision, planning and oversight of the scheduled maintenance and repair needs of capital assets owned by the commonwealth.

SECTION 10. Section 16 of chapter 7A of the General Laws, inserted by section 45 of chapter 194 of the acts of 1998, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following paragraph:-

The comptroller, in consultation with the secretary of administration and finance and the attorney general, shall administer the Liability Management and Reduction Fund established in section 2TT of chapter 29. The comptroller may appoint a liability manager of said fund whose compensation shall be paid out of said fund. The comptroller shall have the following powers and duties with respect to the fund:.

SECTION 11. Said section 16 of said chapter 7A, inserted by said section 45 of said chapter 194, is hereby further amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

(a) to use amounts in the fund to make payments or to purchase insurance coverage to make payments for the purposes set forth in said section 2TT of said chapter 29; provided, however, that any insurance coverage so purchased shall recognize and preserve the commonwealth's constitutional, statutory and common law rights, defenses, immunities and control including, without limitation, the provisions of chapters 12 and 258;.

SECTION 12. Section 23 of chapter 10 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 1, the word "in" and inserting in place thereof the following word:- , in.

SECTION 13. Section 13 of chapter 11 of the General Laws, as so appearing, is hereby amended by striking out, in line 14, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 14. Section 18 of chapter 15 of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the word "therefore" and inserting in place thereof the following word:- therefor.

SECTION 15. Section 40 of chapter 15A of the General Laws, as so appearing, is hereby amended by striking out, in line 76, the words "of the General Laws".

SECTION 16. Section 13 of chapter 19A of the General Laws, as so appearing, is hereby amended by striking out, in lines 26 and 27, the words "the workmen's compensation act," and inserting in place thereof the following words:- chapter 152.

SECTION 17. Section 37 of chapter 21 of the General Laws, as so appearing, is hereby amended by striking out, in lines 18 and 31, the words "eighteen A of chapter fifty-eight", each time they appear, and inserting in place thereof, in each instance, the following words:- 18C of chapter 58.

SECTION 18. Section 13A of chapter 21A of the General Laws, inserted by chapter 22 of the acts of 1998, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

A violation of this section shall be punished by a fine of not more than \$1,000.

SECTION 19. Section 2 of chapter 21E of the General Laws is hereby amended by striking out the words "subclause (iii) of subparagraph (F) of clause (5)", inserted by section 14 of chapter 206 of the acts of 1998, and inserting in place thereof the following words:- (iii) of subparagraph (F) of clause (5).

SECTION 20. Subsection (b) of section 19 of said chapter 21E, as appearing in section 30 of said chapter 206, is hereby amended by striking out clause (2) and inserting in place thereof the following clause:-

(2) provide assistance to the advisory group established in section 29A of chapter 23G in the development of advisory recommendations for funding projects;.

SECTION 21. The introductory paragraph of subsection (c) of said section 19 of said chapter 21E, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The governor shall choose from among three candidates nominated by the brownfields advisory group established by section 29A of chapter 23G.

SECTION 22. Section 3D of chapter 23A of the General Laws is hereby amended by striking out the word "authority;", inserted by section 21 of chapter 164 of the acts of 1997.

SECTION 23. Section 1 of chapter 23G of the General Laws, as appearing in section 24 of chapter 289 of the acts of 1998, is hereby amended by striking out the definition of "Revenues" and inserting in place thereof the following definition:-

"Revenues", any receipts, fees, rentals or other payments or income received or to be received on account of obligations to the Agency under a financing document including, without limitation, income on account of the leasing, mortgaging, sale or other disposition of a project or proceeds of a loan made by the Agency in connection with any project and also including amounts in reserves or held in other funds or accounts established in connection with the issuance of bonds and the proceeds of any investments thereof, proceeds of foreclosure and any other fees, charges or other income received or receivable by the Agency other than the industrial mortgage established pursuant to section 4 with respect to a project or the financing thereof.

SECTION 24. Said chapter 23G is hereby amended by inserting after section 29 the following section:-

Section 29A. (a) There is hereby established and placed within the Massachusetts Development Finance Agency, referred to in this section as the agency, the Brownfields

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Redevelopment Fund, referred to in this section as the fund, into which shall be credited:

(1) any appropriations or other monies authorized by the general court and specifically designated to be credited to the fund;

(2) fees authorized by subsection (h);

(3) grants, gifts or any other monies directed to the fund; and

(4) any income derived from an investment of amounts credited to the fund.

(b) As used in this section the following words shall have the following meanings unless the context clearly requires otherwise:

"Economically distressed area", an area or municipality that meets the definition of an economically distressed area in section 2 of chapter 21E.

"Environmental cleanup action", activities including, but not limited to, environmental site assessments undertaken to contain or remove from land or structures, oil or hazardous material as defined in chapter 21E and regulations promulgated pursuant thereto, in compliance with all applicable laws.

"Environmental site assessment", activity undertaken in compliance with the applicable laws to determine: (i) the existence, source, nature and extent of a release or threat of release of oil or hazardous materials; or (ii) the extent of danger to the public health, safety, welfare and the environment.

"Loan", a loan or credit enhancement including, but not limited to a loan guarantee, letter of credit or insurance.

"Project site", a vacant, abandoned or underutilized industrial or commercial property located within an economically distressed area where real or perceived environmental contamination and liability is an obstacle to the redevelopment or improvement of such property.

"Priority project", a project eligible for funding under this section as to which the municipality in which the site of such project is located has made available substantial funds in the form of grants, loans or abated property taxes for such site, in furtherance of the purposes of this section and as to which the agency has designated such project as a priority project.

"Site", a place or area where oil or hazardous material has been released, as further defined in section 2 of chapter 21E.

(c) The agency shall hold the fund in an account segregated from other agency funds and accounts and shall utilize, invest or reinvest the proceeds of the fund and income derived therefrom for the following general purposes:

(1) to encourage economic development in economically distressed areas of the commonwealth by providing loans and grants to finance environmental site assessments and environmental cleanup actions;

(2) to defray costs incurred in the administration of the fund, as provided in subsections (g) and (h) and in the fund guidelines; and

(3) to purchase with funds not immediately required for use pursuant to clauses (1) and (2), such securities as may be lawful investments for fiduciaries in the commonwealth.

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(d) The agency may make and administer grants and loans to finance environmental site assessments and environmental cleanup actions provided that:

(1) the project is located at a project site within an economically distressed area as defined in section 2 of chapter 21E;

(2) 30 per cent of all funds administered provide grants and loans to finance environmental site assessments;

(3) an applicant shall transfer the results of the environmental assessment to the regional office of the department of environmental protection if such applicant does not proceed with development of the project for which the project site was assessed with loan monies from the fund;

(4) no single project, other than a priority project, shall receive a grant or loan to conduct environmental cleanup actions which shall exceed \$500,000 of the assets of the fund;

(5) no single project, other than a priority project, shall receive a grant or loan to conduct environmental site assessments which shall exceed \$50,000 of the assets of the fund;

(6) no single priority project shall represent a commitment of more than \$2,000,000 of the assets of the fund;

(7) no loan made hereunder shall be utilized to finance all of the costs required to complete the response action at a project site, the required match to be set forth in the fund guidelines, except that the required match may be waived in whole or in part by the agency;

(8) no grant shall be awarded unless and until the applicant for such grant contributes an amount equal to 20 per cent of the grant for which such applicant has applied;

(9) no loan or grant shall be made for an environmental site assessment or environmental cleanup action eligible for funding under chapter 21J;

(10) security for loans made hereunder may be subordinate to private or other financing provided for the site acquisition, cleanup or development of the project site; and

(11) grants shall be provided only to a city or town, redevelopment authority, redevelopment agency, economic development and industrial corporation, community development corporation or an economic development authority.

(e) To be eligible for financial assistance from the fund, in addition to the requirements in subsection (d), the applicant and project shall meet the following requirements and the applicant shall submit to the brownfields advisory group and the agency, for the agency's final approval, a completed application providing all information required herein and by the fund guidelines, including:

(1) the proposed redevelopment project will result in a significant economic impact in terms of the number of jobs to be created or will contribute to the economic or physical revitalization of the economically distressed area in which the project site is located and a significant level of community benefits shall be associated with the project;

(2) if the applicant is requesting financing for environmental cleanup action costs, assistance from the fund shall be necessary to make the proposed reuse of the project site financially feasible;

(3) the applicant shall certify that he: (i) would be liable solely pursuant to clause (1) of paragraph (a) of section 5 of chapter 21E; (ii) did not cause or contribute to the release of oil or hazardous material at the site; (iii) did not own or operate the site at the time of the release; and (iv) does not have a familial relationship or a direct or indirect business relationship, other than that by which the applicant's interest in such property is to be conveyed or financed, with another party that is potentially liable under said chapter 21E with regard to the project site; provided, however, that the provisions of this subclause may be waived with the approval of the board of directors of the agency after full disclosure by the applicant of the familial or business relationship with a potentially responsible party; and

(4) the applicant is not subject to any outstanding administrative or judicial environmental enforcement action unless the applicant has entered into an agreement with the department of environmental protection or the attorney general to resolve such enforcement action with respect to the property under consideration for assistance from the fund and with respect to any other properties located within the commonwealth for which the applicant is liable pursuant to chapter 21E.

(f) In evaluating an application for financing from the fund, the brownfields advisory group and the agency shall review each applicant's redevelopment project and the brownfields advisory group shall make advisory recommendations to the agency. The agency shall take into consideration the following factors:

(1) the level of unemployment and poverty in the economically distressed area and in the census tract, if any, within the economically distressed area in which the project site is located;

(2) the likelihood that the proposed response action will be adequate to clean up the property in accordance with the requirements of all applicable laws;

(3) the presence of community benefits associated with the project including, without limitation, the creation or revitalization of open space;

(4) the proximity of the property to existing transportation and utility infrastructure appropriate to support the proposed reuse of the project site;

(5) whether the project site is located in an area designated as a federal empowerment zone or enterprise community pursuant to 42 U.S.C. section 11501 et seq; and

(6) whether the municipality in which the site of such project is located has made available substantial funds, in the form of grants, loans, or abated property taxes for said site, in furtherance of the purposes of this section.

(g) The agency shall not be liable under chapter 21E for any claim, loss, cost, damage or injury of any nature whatsoever arising in connection with its administration of the fund and the environmental condition of the eligible property unless such loss, cost, injury or damage is caused by the gross negligence or willful misconduct of the agency, its officers, directors, employees or agents and their actions cause or contribute to the contamination of the property or exposure to the contaminants. Neither the provision of a loan or grant nor the failure to provide a loan or grant to an applicant shall be considered a basis of liability for the agency.

(h) The agency may charge fees for defraying the ordinary and necessary expenses of administration and operation associated with the fund. All fees received hereunder shall be deposited into the fund.

(i) Except as otherwise provided, the agency shall have full power to manage its loans, grants and business affairs in connection with the fund.

(j) Prior to approving a loan or grant hereunder, the agency shall, with the advice of the brownfields advisory group, promulgate regulations which shall provide the definitions and procedures required hereunder and set forth the terms, procedures and standards which the agency shall employ to process applications, make lending decisions, safeguard the fund and accomplish the purposes of the fund.

(k) On March 15, 1999 and each year thereafter, the agency shall file, in writing, a report to the governor, the attorney general, the commissioner of environmental protection and the clerks of the house of representatives and the senate who shall forward the same to the president of the senate, the speaker of the house of representatives and the chairmen of the house and senate committees on ways and means. Such report shall include financial statements related to the effectiveness of the fund based on the following criteria, as applicable:

(i) the number of projects assisted through the fund, with a specification of the amount of loan or grant awarded to each;

(ii) the manner in which such projects contribute to the economic and physical revitalization of the areas in which the projects are located and a description of steps taken by the agency to make the application process efficient and manageable; and

(iii) such other information that would provide a fair evaluation of the program.

(l) There shall be established within the agency a brownfields advisory group. The brownfields advisory group shall be comprised of the following 13 members who shall serve for two year terms: the director of economic development or his designee, the commissioner of environmental protection or his designee and the attorney general or his designee. In addition, the speaker of the house of representatives shall appoint the following five brownfields advisory group members: a hazardous waste site cleanup professional as defined in section 19 of chapter 21A, two representatives of community development corporations, a representative from a municipality and a representative from the lending community. The president of the senate shall appoint the following five brownfields advisory group members: a member of a community-based organization concerned with brownfields redevelopment, a representative from the land use and development community, a member from an environmental advocacy organization, a representative from a municipality and a member of the agency board of directors. The chair of the brownfields advisory group shall be elected by members of said advisory group. For action to be taken by the advisory group, a majority of members shall be present. The director of the office of brownfields revitalization shall serve in an advisory capacity to the brownfields advisory group.

(m) The agency shall give a priority to those project sites in economically distressed areas that are considered by the ombudsman and the department of economic development

to be of substantial economic benefit to the community and which will result in the creation or retention of jobs for that community.

(n) The brownfields advisory group shall advise the agency in establishing guidelines pursuant to subsection (j). The brownfields advisory group shall convene on a monthly basis in order to review actions taken by the agency with respect to the fund and to make any advisory recommendations with respect thereto and, further, shall assist in producing the report required by subsection (k).

(o) The brownfields advisory group shall nominate a total of three candidates for the position of director of the office of brownfields revitalization who shall serve as the brownfields ombudsman as defined in section 19 of chapter 21E. The governor may appoint one of the three nominated candidates or select a candidate of his choice to serve as director of the office of brownfields revitalization.

SECTION 25. Subsection (a) of section 20 of chapter 25 of the General Laws, as appearing in section 37 of chapter 164 of the acts of 1997, is hereby amended by striking out paragraph (2) and inserting in place thereof the following paragraph:-

(2) In calendar years 1998 through 2002, the revenues derived from one-quarter of one mill (\$0.00025) of the charge assessed pursuant to the preceding paragraph in each such year shall be set aside and expended pursuant to implementing the provisions of paragraph (2) of subsection (f) of section 4E of chapter 40J.

SECTION 26. Subsection (b) of said section 20 of said chapter 25, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- In the fiscal year ending on June 30, 2001, the board of directors of the Massachusetts Technology Park Corporation shall, in consultation with the advisory committee established pursuant to subsection (i) of section 4E of chapter 40J, the department of telecommunications and energy and the division of energy resources, review the adequacy of the monies generated by such mandatory charge and meeting the requirements of said section 4E.

SECTION 27. Section 5 of chapter 25A of the General Laws is hereby amended by striking out the words "the joint committee on government regulations", inserted by section 42 of chapter 164 of the acts of 1997, and inserting in place thereof the following words:- , the joint committee on government regulations.

SECTION 28. Section 4 of chapter 28A of the General Laws is hereby amended by striking out clause (i), as amended by section 218 of chapter 161 of the acts of 1998, and inserting in place thereof the following clause:-

(i) facilitate the development of and, when appropriate, provide for training programs for persons offering services in day care centers, family day care homes, large family day care homes and family foster care as defined in section 9. Such programs shall be developed in coordination with manpower training and educational programs offered under the board of education, board of higher education, department of labor and workforce development, department of economic development and the department of housing and community development;.

SECTION 29. Chapter 29 of the General Laws is hereby amended by striking out section 2UU, inserted by section 3 of chapter 297 of the acts of 1998, and inserting in place thereof the following section:-

Section 2VV. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Brownfields Revitalization Fund. There shall be credited to said fund any appropriation, transfer, grant, gift or other contribution made to it and any income derived from investment of amounts credited to said fund. Amounts credited to said fund shall be held in an expendable trust and the department of economic development shall report monthly by source all amounts credited to said fund and all expenditures by subsidiary made from said fund on the Massachusetts management and accounting reporting system. Such amounts shall be used solely for the administration and implementation of the provisions of section 60 of chapter 23A and section 8G of chapter 212 of the acts of 1975 or its successor, section 29A of chapter 23G.

SECTION 30. Section 39R of chapter 30 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 123, the word "for" and inserting in place thereof the following word:- of.

SECTION 31. Section 58 of said chapter 30, as so appearing, is hereby amended by striking out, in line 2, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 32. Said section 58 of said chapter 30, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Workers' compensation for such period shall be refunded to the state treasurer or spending agency of the commonwealth. The payment by the industrial accident board for such period shall constitute the total refund and the employee shall be credited with the proportionate part of sick leave credits represented by the workers' compensation paid by the industrial accident board.

SECTION 33. Section 14 of chapter 30A of the General Laws, as so appearing, is hereby amended by striking out, in line 20, the words "provided in section thirty-two of chapter six" and inserting in place thereof the following words:- otherwise provided by law.

SECTION 34. Section 7 of chapter 30B of the General Laws is hereby amended by striking out the words "school textbooks, educational programs, educational courses, educational curricula in any media including educational software, newspapers, serials, periodicals, audiovisual materials or software maintenance", inserted by chapter 172 of the acts of 1998, and inserting in place thereof the following words:- , school textbooks, educational programs, educational courses, educational curricula in any media including educational software, newspapers, serials, periodicals, audiovisual materials or software maintenance.

SECTION 35. Section 3 of chapter 32 of the General Laws is hereby amended by striking out the words ", officers and employees of the general court having police powers;", inserted by section 107 of chapter 194 of the acts of 1998, and inserting in place thereof the following words:- ; officers and employees of the general court having police powers.

SECTION 36. Section 6 of said chapter 32, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "service", in line 1, the following word:- who.

SECTION 37. Said section 6 of said chapter 32, as so appearing, is hereby further amended by inserting after the word "paragraph", in line 10, the following word:- who.

SECTION 38. Paragraph (c) of subdivision (1) of section 11 of said chapter 32, added by section 8 of chapter 64 of the acts of 1998, is hereby amended by striking out the words "(i) If a member is eligible to receive a return" and inserting in place thereof the following words:- If a member is eligible to receive a return.

SECTION 39. Section 14 of said chapter 32, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 66, the word " *Workmen's* " and inserting in place thereof the following word:- *Workers'*.

SECTION 40. Section 23 of said chapter 32 is hereby amended by striking out the words "and no new investment of funds shall be made in stocks, securities, or other obligations of any company which derives more than 15 per cent of its revenues from the sale of tobacco products;", inserted by section 1 of chapter 119 of the acts of 1997, and inserting in place thereof the following words:- and no new investment of funds shall be made in stocks, securities or other obligations of any company which derives more than 15 per cent of its revenues from the sale of tobacco products.

SECTION 41. Chapter 32A of the General Laws is hereby amended by striking out section 20, added by section 187 of chapter 151 of the acts of 1996, and inserting in place thereof the following section:-

Section 21. The commission is hereby authorized and directed to establish and implement a vendor quality improvement program for purposes including, but not limited to: the evaluation and improvement of all health care services as applied to those contracts and the promotion of customer-oriented quality management techniques. Such program shall include both long and short-term objectives, quantifiable improvement goals, benchmarks for evaluating vendors and mechanisms to promote collaboration between the commission and health care vendors to improve health care services. The commission shall file an annual report with the clerks of the senate and house of representatives and with the governor not later than September 30 concerning such vendor quality improvement program.

SECTION 42. Section 5B of chapter 40 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 35, the words "the current year" and inserting in place thereof the following figure:- 1945.

SECTION 43. Said chapter 40 is hereby further amended by inserting after section 5G the following section:-

Section 5H. For the celebration of the year 2000 or the year 2001 or any centennial celebration, any city or town may appropriate money annually during the five years preceding such year. Such city or town is hereby authorized to establish in its treasury a special fund in which shall be deposited such sums as may be appropriated by it under the provisions of

this section, and any and all sums received by way of income from the sale of commemorative items or from admission charges for commemorative ceremonies or events. All such sums received by the treasurer shall be kept separate from other moneys, funds or property of such city or town, and the principal and interest thereof may, from time to time upon the authorization of the mayor or city manager, as the case may be, the board of selectmen, or the majority of any special committee established to plan such celebration, be expended for the purposes of such celebration in the year of such celebration and in the year preceding or succeeding same. There shall be an accounting to the treasurer for the expenditure of all funds. Any surplus remaining in said special fund after such celebration is concluded shall be transferred by the treasurer into the treasury of such city or town.

SECTION 44. Section 13A of said chapter 40, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 7 and 17, the word "workmen's" and inserting in place thereof, in each instance, the following word:- workers'.

SECTION 45. Section 4B of chapter 40B of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the figure "19...." and inserting in place thereof the following words:- (insert year).

SECTION 46. Section 4 of chapter 40N of the General Laws, as so appearing, is hereby amended by striking out, in lines 71 and 72, the words "workers or workmen's" and inserting in place thereof the following word:- workers'.

SECTION 47. The first paragraph of section 38H of chapter 59 of the General Laws, as appearing in section 71 of chapter 164 of the acts of 1997, is hereby amended by striking out the words "For the purposes of this section" and inserting in place thereof the following words:- (a) For the purposes of this section.

SECTION 48. Subsection (a) of said section 38H of said chapter 59, as so appearing, is hereby amended by striking out the words "(a) Any electric company as defined in section 1" and inserting in place thereof the following words:- Any electric company as defined in section 1.

SECTION 49. Chapter 62 of the General Laws is hereby amended by striking out section 10A, inserted by section 7 of chapter 319 of the acts of 1998, and inserting in place thereof the following section:-

Section 10A. A qualified funeral trust shall have the same meaning as in the Code, as amended, on January 1, 1998, effective for taxable years ending on or after August 5, 1997.

SECTION 50. Section 47A of chapter 62C of the General Laws is hereby amended by striking out the words "or has been penalized pursuant to section 9 of chapter 62E for failure to comply with the provisions under said chapter 62E relating to reporting of employees and contractors, or has been penalized pursuant to paragraph (3) of subsection (f) of section 12 of chapter 119A for failure to comply with the provisions under said chapter 119A relating to withholding and remitting child support," inserted by section 28 of chapter 64 of the acts of 1998, and inserting in place thereof the following words:- or has been penal-

ized pursuant to section 9 of chapter 62E for failure to comply with the provisions under said chapter 62E relating to reporting of employees and contractors, or has been penalized pursuant to paragraph (3) of subsection (f) of section 12 of chapter 119A for failure to comply with the provisions under said chapter 119A relating to withholding and remitting child support.

SECTION 51. Section 49A of said chapter 62C is hereby amended by striking out the words "or has been penalized pursuant to section 9 of chapter 62E for failure to comply with the provisions under said chapter 62E relating to reporting of employees and contractors, or has been penalized pursuant to paragraph (3) of subsection (f) of section 12 of chapter 119A for failure to comply with the provisions under said chapter 119A relating to withholding and remitting child support," inserted by section 32 of said chapter 64, and inserting in place thereof the following words:- or has been penalized pursuant to section 9 of chapter 62E for failure to comply with the provisions under said chapter 62E relating to reporting of employees and contractors, or has been penalized pursuant to paragraph (3) of subsection (f) of section 12 of chapter 119A for failure to comply with the provisions under said chapter 119A relating to withholding and remitting child support.

SECTION 52. Section 55A of chapter 62C of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 24 and 26, the word "workmen's" and inserting in place thereof, in each instance, the following word:- workers'.

SECTION 53. Section 3 of chapter 62E of the General Laws is hereby amended by striking out the words "; and including the division of health care finance and policy with respect to payments for free care services made from the uncompensated care pool pursuant to chapter 118G", inserted by section 9 of chapter 47 of the acts of 1997, and inserting in place thereof the following words:- ; and including the division of health care finance and policy with respect to payments for free care services made from the uncompensated care pool pursuant to section 18 of chapter 118G.

SECTION 54. Section 7A of chapter 64C of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 1 and 2, the words "and section seven".

SECTION 55. Section 7B of said chapter 64C, as so appearing, is hereby amended by striking out, in lines 1 and 2, the word ", seven".

SECTION 56. Section 1 of chapter 64K of the General Laws, as so appearing, is hereby amended by striking out, in lines 12 and 13, the word "manufacturers" and inserting in place thereof the following word:- manufactures.

SECTION 57. Section 9A of chapter 69 of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the first time it appears, the word "the".

SECTION 58. Section 6 of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out, in line 15, the word "pupils" and inserting in place thereof the following word:- pupil.

SECTION 59. Section 6A of said chapter 71, as so appearing, is hereby amended by striking out, in line 5, the word ", the" and inserting in place thereof the following word:- the.

SECTION 60. Section 7B of said chapter 71, as so appearing, is hereby amended by striking out, in line 9, the word ", for" and inserting in place thereof the following word:- for.

SECTION 61. Section 16D½ of said chapter 71, as so appearing, is hereby amended by inserting after the word "may", in line 6, the following word:- be.

SECTION 62. Section 24 of said chapter 71, as so appearing, is hereby amended by striking out, in line 5, the word "continuance" and inserting in place thereof the following word:- continuation.

SECTION 63. Section 37J of said chapter 71, as so appearing, is hereby amended by striking out, in line 6, the word "meet" and inserting in place thereof the following word:- met.

SECTION 64. Section 63 of said chapter 71, as so appearing, is hereby amended by striking out, in line 15, the word ", apportion" and inserting in place thereof the following word:- apportion.

SECTION 65. Section 69 of said chapter 71, as so appearing, is hereby amended by striking out, in line 20, the word "or" and inserting in place thereof the following word:- of.

SECTION 66. Section 19E of chapter 78 of the General Laws, as most recently amended by section 135A of chapter 194 of the acts of 1998, is hereby further amended by striking out, in line 28, the word "(4) For" and inserting in place thereof the following word:- For.

SECTION 67. Said section 19E of said chapter 78, as amended by said section 135A of said chapter 194, is hereby further amended by striking out, in line 40, the word "(5) For" and inserting in place thereof the following word:- For.

SECTION 68. Said section 19E of said chapter 78, as amended by said section 135A of said chapter 194, is hereby further amended by striking out, in line 54, the word "(6) To" and inserting in place thereof the following word:- To.

SECTION 69. Said section 19E of said chapter 78, as amended by said section 135A of said chapter 194, is hereby further amended by striking out, in line 58, the word "(7) To" and inserting in place thereof the following word:- To.

SECTION 70. Section 11D of chapter 85 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 4, the words "a bicycle helmet" and inserting in place thereof the following words:- bicycle helmets.

SECTION 71. Section 49E of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in line 39, the words "any workmen's" and inserting in place thereof the following words:- a workers'.

SECTION 72. Chapter 90B of the General Laws is hereby amended by striking out the title and inserting in place thereof the following title:-

MOTORBOATS, OTHER VESSELS AND RECREATIONAL VEHICLES.

SECTION 73. Section 8 of said chapter 90B, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "vessel", in line 222, the following word:- of.

SECTION 74. Section 12 of chapter 93 of the General Laws, as so appearing, is hereby amended by striking out, in line 21, the word "principle" and inserting in place thereof the following word:- principal.

SECTION 75. Section 14E of said chapter 93, as so appearing, is hereby amended by striking out, in line 38, the words "retail," "sales" and inserting in place thereof the following words:- retail", "sales.

SECTION 76. Said section 14E of said chapter 93, as so appearing, is hereby further amended by striking out, in line 43, the words "wholesale," "sales" and inserting in place thereof the following words:- wholesale", "sales.

SECTION 77. Said chapter 93 is hereby further amended by striking out section 14K, as so appearing, and inserting in place thereof the following section:-

Section 14K. Sections 14E to 14K, inclusive, shall be known, and may be cited, as the "Unfair Sales Act".

SECTION 78. Section 105 of said chapter 93, as so appearing, is hereby amended by striking out, in lines 51 and 52, the words "two of chapter nigrty-three A" and inserting in place thereof the following words:- 2 of chapter 93A.

SECTION 79. Said chapter 93 is hereby further amended by striking out section 108, inserted by section 1 of chapter 294 of the acts of 1998.

SECTION 80. Said chapter 93 is hereby further amended by adding the following section:-

Section 114. The fact or suspicion that real property may be or is psychologically impacted shall not be deemed to be a material fact required to be disclosed in a real estate transaction. "Psychologically impacted" shall mean an impact being the result of facts or suspicions including, but not limited to, the following:

(a) that an occupant of real property is now or has been suspected to be infected with the Human Immunodeficiency Virus or with Acquired Immune Deficiency Syndrome or any other disease which reasonable medical evidence suggests to be highly unlikely to be transmitted through the occupying of a dwelling;

(b) that the real property was the site of a felony, suicide or homicide; and

(c) that the real property has been the site of an alleged parapsychological or supernatural phenomenon.

No cause of action shall arise or be maintained against a seller or lessor of real property or a real estate broker or salesman, by statute or at common law, for failure to disclose to a buyer or tenant that the real property is or was psychologically impacted.

Notwithstanding the foregoing, the provisions of this section shall not authorize a seller, lessor or real estate broker or salesman to make a misrepresentation of fact or false statement.

SECTION 81. Section 10C of chapter 94 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 9, the words "ten days" and inserting in place thereof the following words:- , ten days'.

SECTION 82. Section 16C of said chapter 94, as so appearing, is hereby amended by striking out, in line 11, the word "it" and inserting in place thereof the following word:- if.

SECTION 83. Section 3A of chapter 100 of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the word "license;" and inserting in place thereof the following word:- license.

SECTION 84. Section 2A-507 of chapter 106 of the General Laws, as so appearing, is hereby amended by striking out, in line 24, the word "by" and inserting in place thereof the following word:- but.

SECTION 85. Section 70A of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words "the workmen's compensation act" and inserting in place thereof the following words:- chapter 152.

SECTION 86. Section 127B½ of said chapter 111, as so appearing, is hereby amended by striking out, in lines 7 and 19, the words "and/or" and inserting in place thereof the following word:- or.

SECTION 87. Said section 127B½ of said chapter 111, as so appearing, is hereby further amended by striking out, in line 12, the word "or" and inserting in place thereof the following word:- of.

SECTION 88. Section 22 of chapter 111H of the General Laws, as so appearing, is hereby amended by striking out, in line 41, the word "deputy".

SECTION 89. Section 7 of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out, in line 19, the word "science" and inserting in place thereof the following word:- Science.

SECTION 90. Section 12G of said chapter 112, as so appearing, is hereby amended by striking out, in lines 8 and 10, the words ", one hundred and eighteen F".

SECTION 91. Section 95 of said chapter 112, as so appearing, is hereby amended by striking out, in line 16, the word "record" and inserting in place thereof the following word:- , record.

SECTION 92. Section 97 of said chapter 112, as so appearing, is hereby amended by striking out, in line 2, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 93. Section 5 of chapter 115 of the General Laws, as so appearing, is hereby amended by striking out, in lines 67 and 72, the word "workmen's" and inserting in place thereof, in each instance, the following word:- workers'.

SECTION 94. Section 6A of said chapter 115, as so appearing, is hereby amended by striking out, in line 6, the words "under other than dishonorable conditions" and inserting in place thereof the following words:- other than dishonorable.

SECTION 95. Section 16B of chapter 118E of the General Laws is hereby amended by striking out, in line 135, as so appearing, the word "institute" and inserting in place thereof the following word:- , institute.

SECTION 96. Section 1 of chapter 118G of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the definition of "Gross inpatient service revenue" and inserting in place thereof the following definition:-

"Gross inpatient service revenue", the total dollar amount of a hospital's charges for inpatient services rendered in a fiscal year.

SECTION 97. Said section 1 of said chapter 118G, as so appearing, is hereby further amended by striking out, in line 108, the word "surgical" and inserting in place thereof the following word:- , surgical.

SECTION 98. Section 7 of said chapter 118G, as so appearing, is hereby amended by striking out, in line 12, the words "the workmen's compensation act" and inserting in place thereof the following words:- chapter 152.

SECTION 99. Said section 7 of said chapter 118G, as so appearing, is hereby further amended by striking out, in line 117, the word "sixty-days" and inserting in place thereof the following words:- 60 days.

SECTION 100. Subsection (c) of section 18 of said chapter 118G, as appearing in section 14 of chapter 47 of the acts of 1997, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:- Funds deposited in this account shall be kept separate and shall not be commingled with funds of the uncompensated care pool.

SECTION 101. Section 1 of chapter 119A of the General Laws is hereby amended by striking out the words ", including orders for health care coverage, and establishing paternity", inserted by section 66 of chapter 64 of the acts of 1998, and inserting in place thereof the following words:- , including orders for health care coverage,.

SECTION 102. Section 3 of said chapter 119A is hereby amended by striking out subsection (c), as most recently amended by section 75 of said chapter 64, and inserting in place thereof the following subsection:-

(c) The IV-D agency may use any method available to a private party to collect support, including the following:

(1) if no support order is outstanding, the IV-D agency may seek to obtain a support order on any outstanding complaint for divorce, separate support, paternity or support or on any petition filed pursuant to section 24 of chapter 119;

(2) the IV-D agency may seek to obtain a modification of any outstanding court order for support, including health care coverage, on a complaint or judgment of divorce, separate support, paternity or support or may modify the order pursuant to section 3B;

(3) the IV-D agency may institute contempt proceedings under section 34A of chapter 215 to compel compliance with a court order or may institute proceedings to seek entry of a qualified domestic relations order pursuant to the Employee Retirement Security Act, 29 U.S.C. section 1056;

(4) the IV-D agency may intervene or appear in actions for divorce, separate support, paternity, support, appointment as guardian of a minor, care and protection or proceedings supplemental thereto, and in trust proceedings in which an obligor has a beneficial interest,

for the purpose of advising the court as to the financial interest of the commonwealth in the action, when either or both of the parties or their child is receiving public assistance or has received public assistance or is receiving IV-D services or for the purpose of seeking a qualified domestic relations order, pursuant to said Employee Retirement Income Security Act, if an arrearage is owed to the IV-D agency pursuant to an existing court order or judgment for support;

(5) if no action is pending or has been adjudicated, the IV-D agency may file an action to establish paternity and support pursuant to chapter 209C or a civil action to establish support pursuant to section 32F of chapter 209 or the IV-D agency may act to enforce a support order that has previously been issued by a court of competent jurisdiction by contempt or other proceedings;

(6) the IV-D agency may apply for a complaint under chapter 273;

(7) the IV-D agency may file a petition or register an order under chapter 209D;

(8) the IV-D agency may file a petition under chapter 203 for the purpose of distribution of trust income; and

(9) the IV-D agency may file a complaint under chapter 109A alleging a fraudulent transfer by an obligor on the basis of evidence showing a prima facie case that an obligor has transferred income or property to avoid payment of a support obligation.

(d) Whenever the IV-D agency seeks to establish or enforce payment of any arrearage for past failure to pay support, it shall not seek an order which would directly or indirectly result in a decrease in the amount of the current support paid to or on behalf of the child or spouse to whom, or on whose behalf, it is owed. In an action to enforce payment of arrears or determine the current support obligation, the existence or amount of any arrears shall not be a basis for rebutting the current support obligation determined under the child support guidelines promulgated by the chief justice for administration and management.

SECTION 103. Section 12 of said chapter 119A is hereby amended by striking out the words "as set forth in paragraph (1).", inserted by section 140 of said chapter 64, and inserting in place thereof the following words:- as set forth in paragraph (1).

SECTION 104. Said section 12 of said chapter 119A is hereby further amended by striking out the words "income withholding.", inserted by section 152 of said chapter 64, and inserting in place thereof the following words:- , income withholding.

SECTION 105. Section 21 of chapter 138 of the General Laws is hereby amended by striking out the words "19C and every pub brewer under section 19D.", inserted by section 7 of chapter 113 of the acts of 1998, and inserting in place thereof the following words:- 19C, and every pub brewer under section 19D.

SECTION 106. The first paragraph of section 131½ of chapter 140 of the General Laws, as appearing in section 41 of chapter 180 of the acts of 1998, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- It shall be the responsibility of the board to advise the executive office of public safety on matters relating to the implementation of sections 121 to 131P, inclusive, and section 2SS of chapter 29.

SECTION 107. Section 131¾ of said chapter 140, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The secretary of public safety shall, with the advice of the gun control advisory board established pursuant to the provisions of section 131½, compile and publish a roster of large capacity rifles, shotguns, firearms and feeding devices, all as defined in section 121, and such weapons referred to in clauses Eighteenth to Twenty-first, inclusive, of section 123.

SECTION 108. Subsection (a) of section 131P of said chapter 140, as appearing in section 47 of said chapter 180, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Any person making application for the issuance of a firearms identification card under section 129B, a Class A or Class B license to carry firearms under section 131 or 131F or a permit to purchase under section 131A who was not licensed under the provisions of this chapter on June 1, 1998 shall, in addition to the requirements set forth in said section 129B, 131, 131A or 131F, submit to the licensing authority a basic firearms safety certificate; provided, however, that a certificate issued by the division of law enforcement in the department of fisheries, wildlife and environmental law enforcement pursuant to the provisions of section 14 of chapter 131 evidencing satisfactory completion of a hunter education course shall serve as a valid substitute for a basic firearms safety certificate required under this section; and provided further, that an applicant for a firearms identification card for the sole purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate shall not be required to complete a basic firearms safety course as a prerequisite for receiving such card.

SECTION 109. Section 21A of chapter 147 of the General Laws is hereby amended by striking out, in line 31, as appearing in the 1996 Official Edition, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 110. The third paragraph of section 27B of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out the figure "19" and inserting in place thereof the following words:- insert year.

SECTION 111. Section 44F of said chapter 149 is hereby amended by striking out, in line 311, as so appearing, the figure "19...." and inserting in place thereof the following words:- (insert year).

SECTION 112. Said section 44F of said chapter 149 is hereby further amended by striking out, in line 364, as so appearing, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 113. Section 1 of chapter 151A of the General Laws, as so appearing, is hereby amended by striking out, in line 27, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 114. The first paragraph of subsection (f) of section 14G of said chapter 151A, as appearing in section 528 of chapter 161 of the acts of 1998, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There

shall be a rate review board composed of the commissioner of medical assistance or his designee, the deputy director of employment and training or his designee and the commissioner of insurance or his designee.

SECTION 115. Section 71F of said chapter 151A is hereby amended by striking out the words "; provided, however, that", inserted by section 118 of chapter 164 of the acts of 1997.

SECTION 116. Section 7 of chapter 151D of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 1, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 117. Chapter 152 of the General Laws is hereby amended by striking out the title and inserting in place thereof the following title:-

WORKERS' COMPENSATION.

SECTION 118. Section 25A of said chapter 152, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 44 and 69, the word "workmen's" and inserting in place thereof, in each instance, the following word:- workers'.

SECTION 119. Section 46A of said chapter 152, as so appearing, is hereby amended by striking out, in lines 6, 13 and 23, the word "workmen's" and inserting in place thereof, in each instance, the following word:- workers'.

SECTION 120. Section 52B of said chapter 152, as so appearing, is hereby amended by striking out, in line 4, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 121. Section 55 of said chapter 152, as so appearing, is hereby amended by striking out, in line 1, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 122. Section 56 of said chapter 152, as so appearing, is hereby amended by striking out, in line 3, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 123. Section 60C of said chapter 152, as so appearing, is hereby amended by striking out, in line 4, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 124. Section 60D of said chapter 152, as so appearing, is hereby amended by striking out, in line 6, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 125. Section 61 of said chapter 152, as so appearing, is hereby amended by striking out, in line 2, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 126. Section 62 of said chapter 152, as so appearing, is hereby amended by striking out, in line 6, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 127. Section 69B of said chapter 152, as so appearing, is hereby amended by striking out, in line 12, the word "workmen's" and inserting in place thereof the following

word:- workers'.

SECTION 128. Section 17 of chapter 158 of the General Laws, as so appearing, is hereby amended by striking out, in line 56, the figure "19.." and inserting in place thereof the following words:- (insert year).

SECTION 129. Section 136 of chapter 160 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the word "at" and inserting in place thereof the following word:- as.

SECTION 130. Section 147 of chapter 161 of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 131. Section 6 of chapter 161B of the General Laws, as so appearing, is hereby amended by striking out, in line 64, the word "fin" and inserting in place thereof the following word:- in.

SECTION 132. Subparagraph (i) of paragraph (2) of subsection (d) of section 1G of chapter 164 of the General Laws, as appearing in section 193 of chapter 164 of the acts of 1997, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- For the purposes of this chapter, the standard of good faith shall not require either party to agree to a proposal or require the making of concessions, but shall require active participation in negotiations and a willingness to make reasonable concessions in order to equitably mitigate stranded costs and to provide justification for proposals and a sincere effort to reach agreement.

SECTION 133. Subsection (g) of said section 1G of said chapter 164, as so appearing, is hereby amended by striking out the fifth sentence and inserting in place thereof the following sentence:- Notwithstanding clauses (i) to (iii), inclusive, if the total kilowatt hour usage in any service territory falls below usage levels following the installation of such on-site generation or cogeneration equipment, and the department determines that the aggregate reduction in future purchases of electricity and transition charge payments resulting from customers' installing such equipment will have a significant adverse impact on electric bills to be paid by other customers in said distribution company's territory during the remaining period of transition cost recovery, then the department may order that an exit charge shall be paid on such terms as determined by the department based upon criteria promulgated herein and through rules and regulations.

SECTION 134. Said chapter 164 is hereby further amended by striking out section 47D, as appearing in section 197 of said chapter 164, and inserting in place thereof the following section:-

Section 47D. A municipal lighting plant created pursuant to the provisions of this chapter or any special law shall be exempt from the public record requirements of section 10 of chapter 66 and the open meeting requirements of section 23B of chapter 39 only in those instances when necessary for protecting trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter when such municipal lighting plant board determines that such disclosure will

adversely affect its ability to conduct business in relation to other entities making, selling, or distributing electric power and energy pursuant to this chapter.

SECTION 135. Section 52 of said chapter 164, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "for", in line 4, the second time it appears, the following word:- the.

SECTION 136. Section 56 of said chapter 164, as so appearing, is hereby amended by striking out, in line 28, the word "punished" and inserting in place thereof the following word:- punishable.

SECTION 137. Section 69E of said chapter 164, as so appearing, is hereby amended by striking out, in line 25, the words "the workmen's compensation law" and inserting in place thereof the following words:- chapter 152.

SECTION 138. The first paragraph of section 69R of said chapter 164, as amended by section 224 of chapter 164 of the acts of 1997, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- Any electric or gas company, generation company, or wholesale generation company may petition the department for the right to exercise the power of eminent domain with respect to the facility or facilities specified and contained in a petition submitted in accordance with section 69J or a bulk power supply substation if such company is unable to reach agreement with the owners of land for the acquisition of any necessary estate or interest in land.

SECTION 139. Said section 69R of said chapter 164 is hereby further amended by striking out the words "in the community in which the land to be taken is located", inserted by section 225 of said chapter 164, and inserting in place thereof the following words:- the community in which the land to be taken is located.

SECTION 140. Section 94G of said chapter 164, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 155, the word "to" and inserting in place thereof the following word:- be.

SECTION 141. Section 22A of chapter 166 of the General Laws, as so appearing, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following paragraph:-

As used in this section and in sections 22B to 22M, inclusive, the following words shall, unless the context requires otherwise, have the following meanings:-

SECTION 142. Section 1 of chapter 166A of the General Laws is hereby amended by striking out the definition of "Division", as amended by section 33 of chapter 88 of the acts of 1997, and inserting in place thereof the following definition:-

"Division", the division of community antenna television.

SECTION 143. Section 3 of said chapter 166A, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 15, the word "commission" and inserting in place thereof the following word:- division.

SECTION 144. Section 8 of said chapter 166A, as so appearing, is hereby amended by striking out, in line 8, the word "commission" and inserting in place thereof the following word:- division.

SECTION 145. Section 13 of said chapter 166A, as so appearing, is hereby amended by striking out, in line 5, the word "commission" and inserting in place thereof the following word:- division.

SECTION 146. Section 15 of said chapter 166A, as so appearing, is hereby amended by striking out, in line 19, the word "commission" and inserting in place thereof the following word:- division.

SECTION 147. Section 1 of chapter 167B of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 101 and 116, the word "commonwealth;" and inserting in place thereof, in each instance, the following word:- commonwealth.

SECTION 148. Said section 1 of said chapter 167B, as so appearing, is hereby further amended by striking out, in line 105, the word "States;" and inserting in place thereof the following word:- States.

SECTION 149. Said section 1 of said chapter 167B, as so appearing, is hereby further amended by striking out, in line 112, the words "three and for the purposes of section four;" and inserting in place thereof the following words:- 3 and for the purposes of section 4.

SECTION 150. Section 3 of chapter 167F of the General Laws, as so appearing, is hereby amended by striking out, in line 21, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 151. Section 75 of chapter 171 of the General Laws, as so appearing, is hereby amended by striking out, in line 134, the figure "19____" and inserting in place thereof the following words:- (insert year).

SECTION 152. Section 46A of chapter 175 of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 153. Section 47 of said chapter 175, as so appearing, is hereby amended by striking out, in line 123, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 154. Section 80 of said chapter 175, as so appearing, is hereby amended by striking out, in line 66, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 155. Section 94D of said chapter 175, as so appearing, is hereby amended by striking out, in line 66, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 156. Section 94E of said chapter 175, as so appearing, is hereby amended by striking out, in line 25, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 157. Section 94J of said chapter 175, as so appearing, is hereby amended by striking out, in line 14, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 158. Section 99 of said chapter 175, as so appearing, is hereby amended by striking out, in lines 19, 88 and 89, the figure "19", each time it appears, and inserting in place thereof, in each instance, the following words:- (insert year).

SECTION 159. Section 108 of said chapter 175, as so appearing, is hereby amended by striking out, in lines 329, 358 and 359, 396 and 397, and in line 523, the word "workmen's" and inserting in place thereof, in each instance, the following word:- workers'.

SECTION 160. Section 168 of said chapter 175, as so appearing, is hereby amended by striking out, in line 7, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 161. Section 182 of said chapter 175, as so appearing, is hereby amended by striking out, in line 11, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 162. Section 183 of said chapter 175, as so appearing, is hereby amended by striking out, in line 6, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 163. Chapter 176B of the General Laws is hereby amended by striking out section 4P, inserted by section 147 of chapter 60 of the acts of 1994.

SECTION 164. Said chapter 176B is hereby further amended by striking out section 4Q, inserted by section 6 of chapter 302 of the acts of 1994.

SECTION 165. Said chapter 176B is hereby further amended by inserting after section 4R, inserted by section 4 of chapter 140 of the acts of 1998, the following two sections:-

Section 4S. Any subscription certificate under an individual or group medical service agreement that shall be delivered, issued or renewed in the commonwealth shall provide as benefits to all individual subscribers and members within the commonwealth and to all group members having a principal place of employment within the commonwealth, coverage for blood-glucose monitoring strips for home use for which a physician has issued a written order and which are medically necessary for the treatment of insulin-dependent diabetes.

Section 4T. Any subscription certificate under an individual or group medical service agreement delivered, issued or renewed in the commonwealth shall provide as benefits to all individual subscribers and members within the commonwealth and to all group members having a principal place of employment within the commonwealth for services rendered by a certified registered nurse anesthetist or nurse practitioner designated as such a certified registered nurse anesthetist or nurse practitioner by the board of registration in nursing pursuant to the provisions of section 80B of chapter 112; provided, however, that the following conditions are met: (1) the service rendered is within the scope of the certified registered nurse anesthetist's license or nurse practitioner's authorization to practice by the board of registration in nursing; and (2) the policy or contract currently provides benefits for identical services rendered by a provider of health care licensed by the commonwealth.

SECTION 166. Section 14 of said chapter 176B, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 9, the words "any workmen's compensation law" and inserting in place thereof the following words:- chapter 152.

SECTION 167. Section 14 of chapter 176E of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words "any workmen's compensation law" and inserting in place thereof the following words:- chapter 152.

SECTION 168. Section 14 of chapter 176F of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words "any workmen's compensation law" and inserting in place thereof the following words:- chapter 152.

SECTION 169. Chapter 176G of the General Laws is hereby amended by striking out section 4H, inserted by section 5 of chapter 284 of the acts of 1994.

SECTION 170. Said chapter 176G is hereby further amended by inserting after section 4K, inserted by section 7 of chapter 243 of the acts of 1998, the following section:-

Section 4L. Any group health maintenance contract shall provide coverage for hospice services as defined in section 57D of chapter 111 during the life of the patient, to terminally ill patients with a life expectancy of six months or less; provided, however, that such services are determined to be appropriate and authorized by the patient's primary care or treating physician and are equivalent to those services provided by a licensed hospice program regulated by the department of public health.

SECTION 171. Section 5 of chapter 176J of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 7, the first time it appears, the words "of such person".

SECTION 172. Section 20 of chapter 207 of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the word "act," and inserting in place thereof the following word:- act.

SECTION 173. Section 5 of chapter 209C of the General Laws is hereby amended by striking out the words "by the IV-D agency as set forth in chapter 119A on behalf of the department of transitional assistance the department of social service, the division of medical assistance or any other public assistance program of the commonwealth", inserted by section 211 of chapter 64 of the acts of 1998, and inserting in place thereof the following words:- by the IV-D agency as set forth in chapter 119A on behalf of the department of transitional assistance, the department of social services, the division of medical assistance or any other public assistance program of the commonwealth.

SECTION 174. Section 17 of said chapter 209C is hereby amended by striking out the first sentence, as amended by section 234 of said chapter 64, and inserting in place thereof the following sentence:- In an action under this chapter to establish paternity of a child born out of wedlock, the court shall, on motion of a party and upon a proper showing except as provided in this section, order the mother, the child and the putative father to submit to one or more genetic marker tests of a type generally acknowledged as reliable and performed by a laboratory approved by an accreditation body designated by the federal Secretary of Health and Human Services pursuant to Title IV, Part D of the Social Security Act.

SECTION 175. Said section 17 of said chapter 209C is hereby further amended by striking out the words "genetic marker test", inserted by section 240 of said chapter 64, and inserting in place thereof the following words:- a genetic marker.

SECTION 176. Said section 17 of said chapter 209C is hereby further amended by striking out the words "genetic marker tests", inserted by section 246 of said chapter 64, and inserting in place thereof the following words:- genetic marker.

SECTION 177. Section 2 of chapter 210 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 30, the figure "19" and inserting in place thereof the following words:- (insert year).

SECTION 178. Section 4A of chapter 211 of the General Laws, as so appearing, is hereby amended by striking out, in line 31, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 179. The fourth paragraph of section 10 of chapter 218 of the General Laws, as appearing in section 227 of chapter 194 of the acts of 1998, is hereby amended by striking out the line reading "fourth district court of eastern middlesex" and inserting in place thereof the following line:- fourth district court of eastern Middlesex.

SECTION 180. Section 20J of chapter 233 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 31, the word "inadmissable" and inserting in place thereof the following word:- inadmissible.

SECTION 181. Section 14 of chapter 244 of the General Laws, as so appearing, is hereby amended by striking out, in line 60, the figure "19" and inserting in place thereof the following words:- (insert year).

SECTION 182. Section 17B of said chapter 244, as so appearing, is hereby amended by striking out, in lines 31 and 37, the figure "19" and inserting in place thereof, in each instance, the following words:- (insert year).

SECTION 183. Section 6A of chapter 252 of the General Laws, as so appearing, is hereby amended by striking out, in line 11, the word "workmen's" and inserting in place thereof the following word:- workers'.

SECTION 184. Section 5A of chapter 254 of the General Laws, as so appearing, is hereby amended by striking out, in line 24, the figure "19___" and inserting in place thereof the following words:- (insert year).

SECTION 185. Said section 5A of said chapter 254, as so appearing, is hereby further amended by striking out, in line 35, the figure "19" and inserting in place thereof the following words:- (insert year).

SECTION 186. Section 12 of said chapter 254, as so appearing, is hereby amended by striking out, in line 43, the figure "19" and inserting in place thereof the following words:- (insert year).

SECTION 187. Said section 12 of said chapter 254, as so appearing, is hereby further amended by striking out, in line 54, the figure "19.." and inserting in place thereof the following words:- (insert year).

SECTION 188. Section 14 of said chapter 254, as so appearing, is hereby amended by striking out, in line 37, the figure "19___" and inserting in place thereof the following words:- (insert year).

SECTION 189. Section 3 of chapter 258B of the General Laws, as so appearing, is hereby amended by striking out, in line 48, the word "prosection" and inserting in place thereof the following word:- prosecution.

SECTION 190. Section 30A of chapter 266 of the General Laws is hereby amended by striking out the fourth subparagraph, inserted by section 43 of chapter 295 of the acts of 1998.

SECTION 191. Section 2A of chapter 276 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 25, the figure "19" and inserting in place thereof the following words:- (insert year).

SECTION 192. Section 2B of said chapter 276, as so appearing, is hereby amended by striking out, in lines 16 and 39, the figure "19" and inserting in place thereof, in each instance, the following words:- (insert year).

SECTION 193. Section 6A of chapter 279 of the General Laws, as amended by section 121 of chapter 19 of the acts of 1997, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

When a person is sentenced on a first offense to imprisonment in a jail or house of correction for a term which does not exceed one year, the court may order the sentence to be served in whole or in part on weekends and legal holidays or such other periodic interval as the court may determine. Such a sentence shall be known as a special sentence of imprisonment. If an offender receives a special sentence of imprisonment under this section, he shall, unless otherwise provided by the sentence of the court, report to the institution to which he has been sentenced no later than 6:00 p.m. on Friday and shall be released at 7:00 a.m. on the succeeding Monday; provided, however, that if the succeeding Monday is a holiday, the offender shall not be released until 7:00 a.m. on Tuesday; and provided further, that the total time served shall be equal to the sentence imposed.

SECTION 194. Section 316 of chapter 164 of the acts of 1997 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Notwithstanding any general or special law, rule, or regulation to the contrary, the chairman of the department of telecommunications and energy is hereby authorized and directed, in conjunction with the director of the division of community antenna television established pursuant to chapter 166A of the General Laws, to conduct an investigation and study relative to the adequacy and effectiveness of existing licensing and regulation of cable television operations by municipalities and the commonwealth in meeting the needs of consumers across the commonwealth.

SECTION 195. Section 332 of said chapter 164 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- In developing such process, the division shall create a mechanism for assessing fines and penalties for violations of such process.

SECTION 196. Item 0411-1000 of section 2 of chapter 194 of the acts of 1998 is hereby amended by adding the following words:- , prior appropriation continued.

SECTION 197. Item 0540-1100 of said section 2 of said chapter 194 is hereby amended by striking out the figure "\$447,393" and inserting in place thereof the following figure:- \$453,493.

SECTION 198. Said section 2 of said chapter 194 is hereby further amended by striking out item 1201-0160 and inserting in place thereof the following item:-

1201-0160 For the child support enforcement unit; provided, that the department may allocate funds appropriated herein to the department of state police, the district courts, the probate and family courts, the district attorneys and other state agencies for the performance of certain child support enforcement activities and that such agencies may expend such funds for the purposes of this item; provided further, that all such allocations shall be reported quarterly to the house and senate committees on ways and means upon the allocation of such funds; provided further, that federal receipts associated with the child support computer network shall be drawn down at the highest possible rate of reimbursement and deposited into a revolving account to be expended for said network; provided further, that federal receipts associated with child support enforcement grants shall be deposited into a revolving account to be drawn down at the highest possible rate of reimbursement and to be expended for the grant authority, so-called; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means detailing the balance, year-to-date and projected receipts and year-to-date and projected expenditures, by subsidiary, of the child support trust fund established pursuant to section 9 of chapter 119A of the General Laws; and provided further, that the department shall file a performance report with the house and senate committees on ways and means on or before January 15, 1999 detailing current staffing levels by function and performance indicators, including, but not limited to, TAFDC and non-TAFDC caseloads, collection levels, court cases, paternities established, court orders established, average employee workload, federal reimbursements, projections of such indicators for the remainder of the fiscal year and any deviations of current performance from previous projections \$44,127,335

SECTION 199. Item 1410-0400 of said section 2 of said chapter 194 is hereby amended by inserting after the words "memorial day" the following words:- ; provided further, that subject to the approval of the commissioner, not less than \$147,473 shall be paid to the town of Oxford as reimbursement for veterans' benefits paid by said town in 1991 to 1994, inclusive.

SECTION 200. Item 2350-0100 of said section 2 of said chapter 194 is hereby amended by striking out the figure "\$9,208,025" and inserting in place thereof the following figure:- \$9,458,025.

SECTION 201. Said section 2 of said chapter 194 is hereby further amended by inserting after item 4400-1100 the following item:-

4400-8998 For the acquisition of computer software for the BEACON project, so-called \$1,184,500

SECTION 202. Said section 2 of said chapter 194 is hereby further amended by inserting after item 8910-0108 the following two items:-

8910-1000 For a prison industries revenue retention account for the Hampden sheriff's department; provided, that the department may expend an amount not to exceed \$488,554 from revenues collected from the sale of products for materials, supplies, equipment, maintenance of facilities and compensation of employees of the program; and provided further, that all expenditures from this item shall be subject to the provisions of chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system, so-called \$488,554

8910-1100 For a prison industries revenue retention account for the Middlesex sheriff's department; provided, that the department may expend an amount not to exceed \$75,000 from revenues collected from the sale of products for materials, supplies, equipment, maintenance of facilities and compensation of employees of the program; and provided further, that all expenditures from this item shall be subject to the provisions of chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system, so-called \$75,000

SECTION 203. Chapter 229 of the acts of 1998 is hereby amended by inserting after the words "section 8A of chapter 212 of the acts of 1975" the following words:- or its successor, section 25 of chapter 23G of the General Laws.

SECTION 204. Section 2A of chapter 297 of the acts of 1998 is hereby amended by striking out item 7007-0210 and inserting in place thereof the following item:- `

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7007-0210	For the purpose of the Brownfields Redevelopment Fund established pursuant to section 8G of chapter 212 of the acts of 1975, or its successor, section 29A of chapter 23G of the General Laws; provided, that not less than \$5,000,000 shall be expended for financial assistance to project sites located with federal empowerment zones or enterprise communities established pursuant to 42 U.S.C. 11501, et seq or a successor law	\$30,000,000
	Brownfields Revitalization Fund	100.0%

SECTION 205. Sections 30 to 36 of chapter 319 of the acts of 1998 are hereby repealed.

Approved January 14, 1999.

Chapter 464. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF NORTH ADAMS AS THE ANTHONY J. SACCO, SR. BRIDGE.

Be it enacted, etc., as follows:

The bridge on state highway route 2 spanning the Hoosic river in the city of North Adams shall be designated and known as the Anthony J. Sacco, Sr. Bridge, in honor of Anthony J. Sacco, Sr. The department of highways shall erect suitable markers bearing said designation in compliance with the standards of said department.

Approved January 14, 1999.

Chapter 465. AN ACT RELATIVE TO VACANCIES IN THE TOWN COUNCIL OF THE TOWN OF GREENFIELD.

Be it enacted, etc., as follows:

The charter of the town of Greenfield, which is on file in the office of the archivist of the commonwealth as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 3.2 and inserting in place thereof the follow section:-

Section 3.2. Vacancy. Should a vacancy occur in the office of councillor within 90 days before the next annual election, it shall remain vacant until that election. Otherwise, the council president with the advice of the committee chairs may fill that seat by appointing a person residing in the precinct for which a vacancy exists, subject to confirmation by two-thirds vote of the councillors present, to serve until the next annual town election, at which time a person shall be elected to fill the unexpired term.

Approved January 14, 1999.

Chapter 466. AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO ESTABLISH THE NUMBER OF SIGNATURES REQUIRED FOR PETITIONED ARTICLES FOR TOWN MEETING.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Brookline may, by by-law, establish the number of signatures that are required for the insertion of a subject in the warrant for a special town meeting; provided, however, that the number shall not exceed the maximum number of signatures required for petitioned articles under the provisions of section 10 of chapter 39 of the General Laws.

SECTION 2. This act shall take effect upon its passage.

Approved January 14, 1999.

Chapter 467. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF BOXBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. Any holder of an elected office in the town of Boxborough may be recalled therefrom by the registered voters of said town as herein provided.

SECTION 2. Any 200 registered voters of the town of Boxborough may file with the town clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for such recall. Upon certification of the required signatures, said clerk shall thereupon deliver to the first named voter on the affidavit copies of petition blanks addressed to the board of selectmen demanding such recall, copies of which printed forms he shall keep available. Said blanks shall be issued by said clerk with his signature and official seal attached thereto. They shall be dated, shall contain the names of all persons to whom they are issued, the name of the person whose recall is sought and the grounds of recall as stated in the affidavit and shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of said clerk. The recall petition shall be returned and filed with said clerk within 30 days after the filing of the affidavit and shall have been signed by at least 25 per cent of the registered voters of the town as of the date such affidavit was filed with said clerk. To every signature shall be added the place of residence of the signer, giving the street and number, if any. Said clerk shall, within 72 hours of receipt thereof, submit the petition to the registrars of voters in the town, and said registrars shall forthwith certify thereon the number of signatures which are names of registered voters of the town.

SECTION 3. If the petition shall be found and certified by the town clerk to be sufficient, he shall submit the same with his certificate to the board of selectmen without delay and said board shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled. If such officer does not resign within five days thereafter, said

board shall order an election to be held on a date fixed by them not less than 64 nor more than 90 days after the date of said clerk's certificate that a sufficient petition has been filed; provided, however, that if any other town election is scheduled to occur within 100 days after the date of the certificate, said board shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

SECTION 4. Any officer sought to be removed may be a candidate to succeed himself and, unless he requests otherwise in writing, the town clerk shall place his name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election and the conduct of the same shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this act.

SECTION 5. The incumbent shall continue to perform the duties of his office until the recall election. If he is not recalled, he shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided in section 7. If he is recalled, he shall be deemed removed upon the qualifications of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

SECTION 6. Ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall of (name of officer)

Against the recall of (name of officer)

Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (x), may vote for either of said propositions. Under the proposition shall appear the word "Candidates" and the directions to voters required by section 42 of chapter 54 of the General Laws and, beneath this, the names of candidates nominated as hereinbefore provided. If a majority of the votes cast upon the question of recall is in the affirmative, then the candidate receiving the highest number of votes shall be declared elected. If a majority of votes cast on the question is in the negative, then the ballots for candidates need not be counted. If fewer than 30 per cent of the registered voters of the town participate in the election, no votes need be counted and the election shall be deemed to have determined that the incumbent should not be recalled.

SECTION 7. No recall petition shall be filed against an officer within six months after he takes office, nor in the last six months of his term, nor in the case of an officer subjected to a recall election and not recalled thereby, until at least six months after the election at which his recall was submitted to the voters of the town has elapsed.

SECTION 8. No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against him shall be appointed to any town office within two years after such recall or resignation.

SECTION 9. This act shall take effect upon its passage.

Approved January 14, 1999.

Chapter 468. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE ROSLINDALE SECTION OF THE CITY OF BOSTON AS THE CHIEF PETTY OFFICER PAUL N. DONATO, U.S.N. BRIDGE.

Be it enacted, etc., as follows:

The bridge spanning the length of the New York, New Haven and Hartford railroad tracks and located on Cummins highway in the Roslindale section of the city of Boston shall be designated and known as the Chief Petty Officer Paul N. Donato, U.S.N. bridge, in honor of said Paul N. Donato who served in Vietnam and was listed as missing in action for 23 years. A suitable marker bearing said designation shall be attached thereto by the department of highways in compliance with the standards of said department.

Approved January 14, 1999.

Chapter 469. AN ACT RELATIVE TO THE MASSACHUSETTS RETIREMENT BOARD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of subdivision (4) of section 3 of chapter 32 of the General Laws the Massachusetts teachers' retirement board is hereby authorized and directed to grant Dr. Albert Argenziano creditable service for the period of time during which he served as Director General of the American School of Guadalajara Mexico; provided, however, that any credit to be allowed shall not exceed five years of the maximum credit of ten years allowable for service in other states as provided in said subdivision (4); provided, further, that he shall pay into the Annuity Savings Fund, in one sum or in installments, as the board shall determine, an amount equal to the regular deductions which would have been deducted for said period together with regular interest thereon.

In the event that Dr. Argenziano shall retire before the completion of said payments, he shall, in addition to his actual membership service, be entitled to credit for the portion of the creditable service which the total of his actual payments, together with regular interest thereon to the date such retirement becomes effective, bears to the total amount of what his payment, together with regular interest thereon, would have been had he made a payment in one sum on the effective date of his retirement.

SECTION 2. Notwithstanding the provisions of subdivision (4) of section 3 of chapter 32 of the General Laws the Massachusetts teachers' retirement board is hereby authorized and directed to grant Dorothy Argenziano creditable service for the period during which she served as Director of Special Services at the American School of Guadalajara Mexico; provided, however, that any credit to be allowed shall not exceed five years of the maximum credit of ten years allowable for service in other states as provided in said subdivision (4); provided, further, that she shall pay into the Annuity Savings Fund, in one

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sum or in installments, as the board shall determine, an amount equal to the regular deductions which would have been deducted for said period together with regular interest thereon.

In the event that Dorothy Argenziano shall retire before the completion of said payments, she shall, in addition to her actual membership service, be entitled to credit for the portion of the creditable service which the total of her actual payments, together with regular interest thereon to the date such retirement becomes effective, bears to the total amount of what her payment, together with regular interest thereon, would have been had she made a payment in one sum on the effective date of her retirement.

Approved January 14, 1999.

Chapter 470. AN ACT RELATIVE TO SCHOOL BUS INSPECTIONS.

Be it enacted, etc., as follows:

The first paragraph of section 7B of chapter 90. of the General Laws is hereby amended by striking out clause (17), as appearing in the 1996 Official Edition, and inserting in place thereof the following two clauses:-

(17) School bus drivers shall perform daily post-trip inspections of the interior of their buses including behind and underneath each seat. Any school bus driver who fails to perform such inspection shall be punished by a fine of not less than \$50 nor more than \$100;

(18) Every school bus operated on any way shall be chassis model year 1977 or any subsequent model year.

Approved January 14, 1999.

Chapter 471. AN ACT RELATIVE TO TECHNICAL ASSISTANTS.

Be it enacted, etc., as follows:

Chapter 185 of the General Laws is hereby amended by striking out section 10A, as appearing in the 1996 Official Edition, and inserting in place thereof the following section:-

Section 10A. The assistant recorder in any registry, with the approval of the chief justice of the land court department, may appoint one or more technical assistants who shall perform such duties as the court may from time to time assign to them and whose compensation shall be the same as that of the first assistant register of deeds for said registry district. Subject to applicable laws, said assistant recorder, or in the case of abolished counties the state secretary or said assistant recorder, may terminate such technical assistant or assistants unless said chief justice objects in writing within 14 days after the notice of termination.

Approved January 14, 1999.

Chapter 472. AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO ESTABLISH A RETIREE HEALTHCARE LIABILITY TRUST FUND.

Be it enacted, etc., as follows:

SECTION 1. The town meeting of the town of Brookline may appropriate funds in order to offset the anticipated cost of healthcare for retired employees, and the eligible surviving spouse or dependents of deceased employees. Such funds shall be credited to a special fund to be known as the Retiree Healthcare Liability Trust Fund. Any interest or other income shall be added to and become part of such fund. Any funds in said Retiree Healthcare Liability Trust Fund shall be trust funds within the meaning of section 54 of chapter 44 of the General Laws. Amounts may be expended from such fund only in accordance with an actuarial schedule of payments developed by a nationally recognized independent actuarial consulting firm and designed to reduce to zero any unfunded liability attributable to the payment of healthcare costs. Such schedule shall be designed to maintain such costs as a fixed ratio of the current and predicted future payroll of the town or such other acceptable actuarial method that is approved by the actuary. Funds may be utilized for the purposes of this trust fund by appropriation at any town meeting of the town.

SECTION 2. This act shall take effect upon its passage.

Approved January 14, 1999.

Chapter 473. AN ACT RELATIVE TO THE ANNIE E. CASEY FOUNDATION INITIATIVE.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 194 of the acts of 1998 is hereby amended by striking out item 4000-0105 and inserting in place thereof the following item:-

4000-0105 The executive office of health and human services is hereby authorized, to expend revenues from federal reimbursements and other sources in an amount not to exceed \$3,000,000 for the continuation of funding in fiscal year 1999 for the pilot multi-disciplinary urban youth project known as the Annie E. Casey foundation initiative in fiscal year 1998; provided, that the goal of said project shall be to improve service delivery to children and adolescents determined by a court of competent jurisdiction, the department of social services, the department of youth services, the department of mental health, or the school where any such child or adolescent is enrolled as a student, to be at risk of out-of-home placement; provided further,

that the secretary of health and human services shall award a contract funded from this item to an existing community-based vendor providing said services in fiscal year 1998 meeting the terms of performance standards established by the secretary of health and human services, which shall include, but not be limited to, the specific types of services and costs of such services to be funded by said contract, and a delineation of all planned expenditures consistent with the expenditure classification system established by the comptroller; provided further, that no funds from this item shall be used to purchase capital assets or equipment; provided further, that any funds awarded from this item shall be in addition to and not supplant existing state funds; provided further, that any mental health services provided pursuant to said contract shall be delivered by licensed professionals in the mental health field; provided further, that expenditures made pursuant to said contract shall not annualize in fiscal year 2000 beyond the amount appropriated herein; provided further, that any such annualization expended by the commonwealth in said fiscal year shall be funded by agencies of the commonwealth based on a finding to be made by said secretary that said contract's performance standards have been achieved in a cost-effective manner; provided further, that said contract shall not be renewed in the event said finding is not made by May 1, 1999; provided further, that no reimbursements attributable to any department of social services expenditures shall be counted in said estimate or credited to this item; provided further, that said secretary may designate agencies within the secretariat to receive and expend said revenues; provided further, that an agency designated by said secretary may incur expenses and the comptroller shall certify for payments amounts not to exceed the authorization allowed by said secretary; and provided further, that said secretary shall submit to the secretary of administration and finance and the house and senate committees on ways and means the results achieved with the funding appropriated to said Annie E. Casey foundation initiative during fiscal years 1993 until 1999, on or before January 1, 1999, prior appropriation continued. . . . \$3,000,000

SECTION 2. This act shall take effect upon its passage.

Approved January 14, 1999.

**Chapter 474. AN ACT RELATIVE TO CERTAIN ACTIONS OF THE BOARD OF
BANK INCORPORATION AND THE COMMISSIONER OF BANKS.**

Be it enacted, etc., as follows:

SECTION 1. Chapter 167 of the General Laws is hereby amended by striking out sections 26 and 26A, as appearing in the 1996 Official Edition, and inserting in place thereof the following three sections:-

Section 26. The commissioner may, under his hand and official seal, appoint agents to assist him in the duty of liquidation and distribution. The certificates of the appointment of such agents shall be filed in the office of the commissioner and certified copies thereof shall be filed in the office of the clerk of the supreme judicial court. Said commissioner may from time to time authorize such agents to perform such duties connected with said liquidation and distribution as he deems proper. Said commissioner may procure such expert assistance and advice as he considers necessary in the liquidation and distribution of the assets of such bank and he may retain such officers or employees of the bank as he deems necessary. Said commissioner shall require, from a special agent and from such assistants, such security for the faithful discharge of their duty as he deems proper.

Said commissioner may, under his hand and official seal, appoint a federal agency as the liquidating agent of a bank insured by the Federal Deposit Insurance Corporation. Upon its acceptance of the appointment, the agency as liquidating agent shall acquire both legal and equitable title to all of the assets, rights or claims and to all of the real or personal property of the closed bank. The agency as liquidating agent shall have the power to perform all acts and duties of said commissioner in the liquidation of the closed bank. Said commissioner shall petition the supreme judicial court for an order confirming the appointment of the agency as liquidating agency of such bank.

Whenever a federal deposit insurance agency pays or makes available for payment the insured deposit liabilities of a closed bank, it shall become subrogated to all of the rights of the owners of the deposits against the closed bank, whether or not it has become receiver thereof, in the same manner and to the same extent as it would be subrogated in the closing of a national banking association as provided in 12 USC 1811 et seq. For the purposes of this section and section 26A, a federal agency shall mean the Federal Deposit Insurance Corporation, any successor to such corporation, or any other agency or instrumentality of the United States.

Section 26A. Whenever a federal agency, as defined in section 26, is named as liquidating agent of a banking institution as defined in section 1 of chapter 167A, the board

of Bank Incorporation or the commissioner of banks, in order to assist such agency, may exercise its authority under said chapter 167A, chapter 168, chapter 170, and chapter 172 without regard to notice of hearing requirements to effect a resolution.

Section 26B. The commissioner may, under his hand and official seal, appoint the National Credit Union Administration Board as the liquidating agent of a credit union insured by said National Credit Union Administration Board. Upon its acceptance of the appointment, said board as liquidating agent shall acquire both legal and equitable title to all of the assets, rights or claims and to all of the real or personal property of such closed credit union. Said board shall have the power to perform all acts and duties of the commissioner in the liquidation of such closed credit union. Further, said board may also as liquidating agent aid in the liquidation of a credit union insured by it in the same manner and to the same extent as the Massachusetts Credit Union Share Insurance Corporation may aid in the liquidation of a credit union insured by that corporation, as provided in chapter 171.

Whenever the National Credit Union Administration Board pays or makes payment of the insured share and deposit liabilities of a closed credit union, it shall become subrogated to all of the rights of the member and owner of the shares and deposits against the closed credit union, whether or not it becomes receiver thereof in the same manner and to the same extent as it would be subrogated in the closing of a federal credit union as provided in 12 U.S.C. section 1781.

SECTION 2. Said chapter 167 is hereby further amended by inserting after section 36, as so appearing, the following section:-

Section 36A. In addition to all other powers conferred upon the commissioner by law, whenever said commissions considers it necessary to conserve the assets of any bank for the benefit of the depositors and creditors thereof, said commissioner may, under is hand and official seal, appoint a conservator for such bank, and require of such conservator such bond and security a said commissioner may consider proper.

A certificate of the appointment of such conservator shall forthwith be filed in the office of said commissioner. The conservator, with the approval of said commissioner, may procure such expert assistance and advice as necessary in the administration of the affairs of such bank and with like approval may retain such of the officers and employees of such bank as said conservator considers necessary.

The conservator, under the direction and subject to the control of said commissioner, shall take possession forthwith of the property and business of a on bank and take such action necessary to carry on its business and to conserve its assets, pending further disposition thereof, as provided by law.

Upon taking possession of the property and business of a bank, the conservator shall forthwith give notice thereof to all persons holding or having possession of any assets of such bank. No bank, trust company, association, firm or individual, knowing that a conservator has taken such possession, or having been notified thereof as aforesaid, shall have a lien or charge for any payment advance or clearance thereafter made, or liability thereafter incurred, against any of the assets of the bank of whose property and business the conservator shall have taken possession as aforesaid, except as otherwise provided in this section.

During the time such conservator remains in possession of such bank the rights of all parties with respect thereto shall, subject to the other provisions of this section, be the same as if said commissioner had taken possession of such bank.

Such conservator, subject to such orders, rules and regulations as may be prescribed from time to time by said commissioner, may collect moneys due to the bank, and do all acts necessary to continue its business or to conserve its assets. Such conservator shall collect all debts due and claims belonging to it, and with the approval of the commissioner, may sell or compound all bad or doubtful debts, and on like approval may sell all, or any part of, the real and personal property of the bank on such terms as said commissioner shall approve; and, in the name of such bank may take a mortgage on such real property from a bona fide purchaser to secure the whole or a part of the purchase price, upon such terms and for such periods as said commissioner may approve.

To execute and perform the powers and duties conferred upon him, the conservator may, in the name of any such bank prosecute and defend all suits and other legal proceedings and may, in the name of the bank, execute, acknowledge and deliver all deeds, assignments, releases and other instruments necessary and proper to effectuate any sale of real or personal property or any compromise approved by the commissioner; and any deed or other instrument executed pursuant to the authority hereby given, shall be valid and effective for all purposes to the same extent as though executed by the officers of the bank by authority of its board of directors or of its stockholders.

Such conservator, and his assistants, shall be subject to all the penalties, and except as provided in this section to all other provisions of law, to which agents appointed by said commissioner for the purpose of liquidating the affairs of a bank are subject.

While a bank in the hands of a conservator, said commissioner may require the conservator to set aside and make available for withdrawal by depositors and for payment to other creditors such amounts or proportions of their deposits or claims in any department thereof as said commissioner may deem necessary or expedient and may authorize the conservator to receive new deposits as provided in section 3 of chapter 59 of the acts of 1933.

Whenever any bank shall have resumed business with or without a reorganization, or whenever said commissioner shall have taken possession of its property or business as provided in section 22 of chapter 167, the provisions of section 3 of chapter 59 of the acts of 1933 with respect to the segregation of new deposits received under this section shall no longer apply and the deposits received thereunder shall be disposed of in such manner as said commissioner shall direct, unless the owner of any such deposit, within 15 days after notice given by the conservator or the commissioner in such manner as said commissioner shall prescribe, shall have withdrawn the same.

The compensation of the conservator and of counsel, employees and assistants and all other expenses of such conservatorship, including costs and expenses incurred by said commissioner in relation to such bank, shall be fixed by said commissioner and approved by the governor and paid out of the funds of such bank; provided, however, that the compensa-

tion paid the conservator shall in no event be at a higher rate than the highest salary established in said bank and that the total payroll of the bank at the time of the appointment of the conservator shall not be increased by reason of such compensation; and provided, further, that said commissioner may, subject to approval of the governor, upon the written request of any such bank increase the compensation of the conservator for good cause to an amount not to exceed an additional 50 per cent of the compensation paid to the chief executive officer of that bank.

If said commissioner is satisfied that it may be safely done and that it would be in the public interest, he may terminate the conservatorship and permit such bank to resume business subject to such terms, conditions, restrictions or limitations as he may prescribe.

Nothing contained in this section shall, unless otherwise expressly provided herein, be deemed to abridge any power or authority to take possession of a bank conferred upon said commissioner by this chapter or any power or authority conferred by any other provision of law.

The supreme judicial court, or any justice thereof, shall have jurisdiction in equity to enforce the provisions of this section, and to act upon all applications and in all proceedings thereunder.

SECTION 3. Section 5 of chapter 168 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 10, the words "six months" and inserting in place thereof the following words:- one year.

SECTION 4. Said section 5 of said chapter 168, as so appearing, is hereby further amended by adding the following paragraph:-

Upon notice from the subscribers that the proposed savings bank is ready to commence business, the board shall determine that all requirements of law have been complied with, that the bank is a member of the Federal Deposit Insurance Corporation or any successor of the corporation, and that the qualifications of person el are satisfactory. Upon making such determination, the board shall, if satisfied that public convenience and advantage will be promoted thereby, issue a certificate authorizing such bank to begin the transaction of business. No such bank shall begin the transaction of business until such a certificate has been granted.

SECTION 5. Section 4 of chapter 170 of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the words "six months" and inserting in place thereof the following words:- one year.

SECTION 6. Said section 4 of said chapter 170, as so appearing, is hereby further amended by adding the following paragraph:-

Upon notice from the subscribers that the proposed cooperative bank is ready to commence business, the board shall determine that all requirements of law have been complied with, that the bank is a member of the Federal Deposit Insurance Corporation or any successor of the corporation, and that the qualifications of personnel are satisfactory. Upon making such determination, the board shall, if satisfied that public convenience and advantage will be promoted thereby, issue a certificate authorizing such bank to begin the

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transaction of business. No such bank shall begin the transaction of business until such a certificate has been granted.

SECTION 7. Chapter 171 of the General Laws is hereby amended by striking out section 6, as so appearing, and inserting in place thereof the following section:-

Section 6. If it appears that all requirements of law have been complied with, that the credit union will have its shares and deposits insured by a federal agency and that the qualifications of the personnel are satisfactory, the commissioner, shall, if satisfied that the proposed field of operation is favorable to the success of such corporation and that the standing of the proposed incorporators is such as to give assurance that its affairs will be administered in accordance with the spirit of this chapter, issue a certificate authorizing such corporation to begin the transaction of business. No such corporation shall begin the transaction of business until such a certificate has been granted.

No credit union shall receive any deposits or payments on account of shares or make any loans, until its by-laws have been approved in writing by the commissioner.

A credit union shall organize and commence business within one year from the date of its incorporation, otherwise its charter shall be void. So much of chapter 167 as relates to supervision by the commissioner shall apply to credit unions so far as applicable.

For the purpose of this section, a federal agency shall mean the National Credit Union Administration any successor entity or any other agency or instrumentality of the United States which insures shares and deposits in credit unions.

SECTION 8. Sections 40 to 47, inclusive, of chapter 172 of the General Laws are hereby repealed

Approved January 15, 1999.

**Chapter 475. AN ACT RELATIVE TO EXTENDING THE REPORTING DATE
FOR THE SPECIAL COMMISSION ESTABLISHED TO MAKE AN
INVESTIGATION AND STUDY OF LOW INCOME HOUSING IN
THE CITY OF LOWELL.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to extend the January 27, 1999 reporting date for the special commission established to make an investigation and study of low income housing in the city of Lowell, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Section 18 of chapter 257 of the acts of 1998 is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

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Said commission shall report to the general court the results of its investigation and study and its recommendations if any, together with drafts of legislation necessary to carry said recommendations into effect, by filing the same with the clerk of the house on or before April 16, 1999.

Approved January 15, 1999.

Chapter 476. AN ACT AUTHORIZING CERTAIN NONRESIDENTS TO SOLEMNIZE MARRIAGES.

Be it enacted, etc., as follows:

SECTION 1. Section 38 of chapter 207 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 5, the word "a" and inserting in place thereof the following words:- a commissioned cantor or.

SECTION 2. Section 39 of chapter 207, as so appearing, is hereby amended by striking out, in line 14, the first time it appears, the word "a" and inserting in place thereof the following words:- commissioned cantor or duly ordained.

SECTION 3. The second paragraph of said section 39 of said chapter 207, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- A nonresident may solemnize a marriage according to the usage of any church or religious organization which shall have complied with the provisions of the second paragraph of section 38.

Approved January 15, 1999.

Chapter 477. AN ACT AUTHORIZING THOMAS A. ZINE TO BE ADMITTED INTO THE STATE POLICE ACADEMY NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to authorize Thomas A. Zine to attend the state police academy notwithstanding the maximum age requirement, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law or rule to the contrary regulating the maximum age of an applicant for an appointment as a state police officer, Thomas A. Zine of the town of Falmouth shall be eligible to enroll in the next state police

academy, and provided he meets all other requirements, shall be eligible for certification and appointment to such position.

Approved January 15, 1999.

Chapter 478. AN ACT RELATIVE TO THE OPTIONAL RETIREMENT PROGRAM FOR CERTAIN PUBLIC EMPLOYEES.

Be it enacted, etc., as follows:

SECTION 1. Subsection (2) of section 40 of chapter 15A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

(a) Participation in the optional retirement program provided by this section shall be limited to persons who are otherwise eligible for membership in the state employees' retirement system as established under the provisions of chapter 32; provided, however, that they are faculty members, chancellors, vice chancellors, presidents, vice presidents, deans, or holding a position classified as a senior administrator IV, senior administrator III, senior administrator II, senior administrator I of the board of higher education or public institutions of higher education, as defined in section 5.

SECTION 2. Subsection (3) of said section 40 of said chapter 15A, as so appearing, is hereby amended by adding the following paragraph:-

(e) Any eligible employee enrolled in the optional retirement program who retires and wishes to retain his group insurance coverage as provided in chapter 32A, or retires and wishes to enroll in group insurance coverage pursuant to said chapter 32A, may do so in the same manner, and subject to the same limitations and requirements as an active employee member of the state retirement system. Any eligible employee enrolled in the optional retirement program who retains or enrolls in the group insurance coverage upon retirement shall be deemed to have authorized his optional retirement program plan provider to deduct from the retired employees account, on a monthly basis, and forward to the group insurance commission, an amount equal to the retired employee's share of the premium as set by said chapter 32A and each annual appropriation act. Each optional retirement program plan provider shall be required to deduct and forward said premium amounts, as determined by the group insurance commission, to the group insurance commission in advance of the month for which the premium is due and in a manner as may be prescribed by the group insurance commission. For group insurance commission purposes employees who were members of the state retirement system when they became eligible to participate in the optional retirement program, and who then enrolled in the optional retirement program, may add their time in the state retirement system to their time in the optional retirement program in determining years of creditable service.

SECTION 3. Section 8 of chapter 32A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

All amounts withheld from an employee's salary or wages as provided in this section and all amounts withheld from pensions or retirement allowances under the provisions of section 19 of chapter 32 shall be forwarded by the department, institution, or other agency responsible for the payment of employee salaries and wages or pensions and retirement allowances to the commission. All amounts withheld from the optional retirement plans of participating retirees pursuant to section 40 of chapter 15A shall be forwarded directly to the commission by the optional retirement program plan providers. The commission may place all such amounts withheld or paid directly in interest bearing accounts. Any current and future interest earned on such amounts shall be deposited by the commission in the group insurance commission trust fund and maintained separately as a special account subject to the terms of investment and expenditure as provided in section 9A. Such interest shall not be classified under section 9 as a dividend, its equivalent or other refund or rate credits. A statement of all funds so placed, any current and future interest earned thereon, and the purposes for which such interest is expended shall be included in the annual report of the commission as required by section 3. The Massachusetts Parking Authority, the metropolitan area planning council, the Massachusetts State College Building Authority, Worcester county, the county cooperative extension service of Suffolk county, local housing authorities and redevelopment authorities, and all other non-state-funded agencies and authorities shall reimburse the commonwealth for all contributions made on behalf of their employees and retirees including the applicable administrative expense as determined by the commission. The commission, from funds appropriated therefor, may empower the executive director to authorize payment of the contribution of the commonwealth as provided above, which, together with the employee and retiree payments, shall be paid at least once each month to the carrier or carriers entitled to the total monthly premium.

SECTION 4. Notwithstanding the provisions of section 40 of chapter 15A of the General Laws and the regulations adopted thereunder, any election made in writing by an eligible employee between October 30, 1995 and April 26, 1996 to participate in the optional retirement program authorized by said section shall be deemed valid.

SECTION 5. Notwithstanding the provisions of subparagraph (ii) of paragraph (b) of subsection (2) of section 40 of chapter 15A of the General Laws and any other general or special law to the contrary, any eligible employee who was a member of any retirement system established under the provisions of chapter 32 of the General Laws on January 14, 1994 and who had less than ten years of creditable service on that date but more than ten years of creditable service on April 26, 1996, and has been an eligible employee and a member of said retirement system continuously from January 1, 1994 to the effective date of this section may elect in writing to participate in the optional retirement program established by said section 40 of said chapter 15A within 90 days of the effective date of this

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section. Any such election shall become effective on the first day of the pay period next following such election, and shall constitute a waiver of all retirement benefits to which the individual may be entitled as an employee under any retirement system established under the provisions of said chapter 32.

Approved January 15, 1999.

Chapter 479. AN ACT RELATIVE TO A CERTAIN SEWER CONNECTION IN THE TOWN OF WALPOLE.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, wastewater generated from Caritas Southwood Hospital, a Massachusetts corporation located primarily in the town of Norfolk, may be discharged to the sewerage system of the town of Walpole, a political subdivision listed in subsection (c) of section 8 of chapter 372 of the acts of 1984 and a member of the Massachusetts Water Resources Authority. Such wastewater discharged from the hospital to the town of Walpole shall be metered at the Walpole municipal boundary and charged at a user's rate set by the Walpole sewer and water commission.

The connection authorized hereunder shall be sized for and limited to use by Caritas Southwood Hospital, for as long as it remains a primary care hospital, and such additional users in the town of Walpole as the town of Walpole may authorize in accordance with law. Said connection and any discharges into said connection shall be subject to the said direction, control and regulation of the authority pursuant to the provisions of chapter 372 of the acts of 1984, and subject to the applicable rules and regulations of the town of Walpole. The authority may charge the hospital for all expenses and costs of said connection and for sewer services it provides to the hospital and may require other terms and conditions applicable to such connection and the provision of sewer services as determined by the authority. The town of Walpole may charge the hospital for any expenditures made to increase the size of the sewer lines down gradient of said connection as required to carry the additional flow generated by the hospital. No charges or expenses related to the connection and provision of sewer services authorized herein shall be the responsibility of the town of Norfolk. The connection authorized herein shall be subject to review and approval by the Massachusetts Water Resources Authority and to the issuance of such permits and approvals by any other agency, regulatory body, authority, or political subdivision, including but not limited to the town of Walpole, as may be required by law to establish said sewer connection.

Approved January 15, 1999.

**Chapter 480. AN ACT RELATIVE TO CERTAIN INSURANCE BENEFITS FOR
PART TIME ELECTED OFFICIALS OF THE TOWN OF CARVER.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of chapter 32B of the General Laws, part-time elected officials of the town of Carver who receive a stipend shall not be eligible for participation in the town's contributory health and life insurance benefit plan, except that part-time elected officials who were elected before April, 1998 and currently participate in the plan shall be eligible to continue until the end of current term. Part-time elected officials who receive a stipend who pay the full monthly cost to the town, plus any administrative costs that may be assessed by the board of selectmen, may be deemed eligible to participate.

Approved January 15, 1999.

**Chapter 481. AN ACT TO IMPLEMENT A PROGRAM OF REEMPLOYMENT
ASSISTANCE TO EMPLOYEES TERMINATED AS A RESULT OF
THE RESTRUCTURING OF THE UTILITY INDUSTRY.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to implement forthwith a program of reemployment assistance to employees terminated as a result of the restructuring of the utility industry and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for supplementing certain items in the general appropriation act for fiscal year 1999 and for certain other activities and projects in said fiscal year, the sum set forth in section 2A is hereby appropriated from the general fund for the several purposes and subject to the conditions specified herein and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 1999.

NO SECTION 2.

SECTION 2A.

EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.

Reserves.

1599-3843 For a reserve to meet the fiscal year 1999 incremental costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the board of higher education and the America Federation of State, County and municipal Employees, Council 93, Local 1067;

provided, that the amounts provided herein shall be in addition to amounts appropriated in the general appropriation act for such salary adjustments and such benefits for said fiscal year; provided further, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1999 such amounts as may be necessary to meet the costs of such adjustments and benefits in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall charge to the Collective Bargaining Reserve Fund expenditures from the accounts receiving transfers from this item in amounts equal to the amounts of such transfers \$2,254,488

Collective Bargaining Reserve Fund 100.0%

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT.

Division of Employment and Training.

7002-9500 For the implementation of the program of benefits authorized by section 71I of chapter 151A of the General Laws; provided further, that the department shall bill the employer of an employee receiving benefits from this item in accordance with the provisions of subsection (b) of said section 71I and shall deposit the proceeds of any such billing in the General Fund; provided further, that said department shall file with the joint committee on government regulations, the joint committee on commerce and labor and the house and senate committees on ways and means a quarterly accounting of the number of persons eligible for such program, the total expenditure and average expenditure per person of the funds appropriated herein, the number of persons projected to be eligible for such benefits for the duration of this item of appropriation and the accumulated total billings deposited in the General Fund from the amounts expended herein; provided further, the department shall project, in the final quarterly accounting required hereunder, the number of persons projected to be eligible for such benefits and the projected costs thereof after funds from this item cease to be available for expenditure and prior to the expiration of such program of benefits on

December 31, 2005 pursuant to section 343 of chapter 164 of the acts of 1997 and sections 5 and 8 of this act; and provided further, that notwithstanding the provisions of any general or special law to the contrary, funds appropriated herein shall be available for expenditure until June 30, 2000 \$3,635,385

SECTION 3. Subsection (c) of section 38H of chapter 59 of the General Laws, as appearing in section 115 of chapter 194 of the acts of 1998, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- Such payments in addition to taxes shall be made in equal payments on or before July 31, October 31, January 31 and April 30 of each year by such electric company in the following amounts: for fiscal years 1999, 2000 and 2001, in an amount which, when added to the amount of taxes due for each year, equals the amount of tax payments remitted to such host community in fiscal year 1998.

SECTION 4. Section 71I of chapter 151A of the General Laws, inserted by section 119 of chapter 164 of the acts of 1997, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection

(a) employee of a generation facility, an electric company or a gas company, each as defined in section I of chapter 164, who is terminated after July 1, 1997 through no fault of his own as a result of the restructuring of the electricity and gas industries in the commonwealth and who is otherwise eligible for unemployment benefits, shall receive reemployment assistance benefits, pursuant to section 71F, and health insurance benefits, pursuant to section 71G. The total amount of reemployment assistance benefits payable to any such eligible employee with respect to the employee's benefit year shall be 13 weeks and shall not otherwise be adjusted by the provisions of subsection (c) of said section 71F for the number of weeks of advance notification given to any such employee by the employer or the number of weeks of separation pay, or the equivalent thereof, received by the employee from the employer. No such employee shall be denied or be determined to be ineligible for any such benefits if the employer has provided notice of the cessation of employment. Such benefits shall be in addition to any benefits an employee may receive pursuant to the provisions of an agreement resulting from collective bargaining by the owners of an electric company or generation facility, who owned such facilities as of July 1, 1997, or a gas company and an organization representing such employee in the negotiations of any such agreement.

SECTION 5. Section 71I of chapter 151A of the General Laws is hereby repealed.

SECTION 6. Section 29H of chapter 217 of the General Laws, inserted by section 221 of chapter 194 of the acts of 1998, is hereby repealed.

SECTION 7. Chapter 164 of the acts of 1997 is hereby amended by striking ,out section 340 and inserting in place thereof the following section:-

Section 340. There is hereby established a special commission on the deregulation and convergence of industry which shall study the ramifications of past, present and future

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efforts to restructure the major regulated businesses and industries serving the commonwealth's consumers including, but not limited to, the electric utility industry, the telephone and telecommunications industry, including the Internet system, the gas industry, the transportation industry and the cable television industry. Said commission shall consist of: the co-chairs of the joint committee on government regulations, four additional members of the general court, including two members of the senate, one of whom shall be a member of the minority party to be appointed by the minority leader, two members of the house of representatives, one of whom shall be a member of the minority party to be appointed by the minority leader and those legislators among them shall elect the chairman of said special commission, the secretary of administration and finance or his designee, a commissioner of the department of telecommunications and energy to be appointed by its chair, the attorney general or his designee, the director of consumer affairs and business regulation, one representative from each of the five aforementioned major regulated industries who shall be appointed by the governor, one of whom shall be a consumer protection advocate, two of whom shall be members representing the interests of industry employees, one of whom shall be a representative of organized labor, and one of whom shall be a member of the Massachusetts Municipal Association to be nominated by the president of said association. Said commission shall study and make recommendations relative to convergence of such industries in merged or joint projects or activities the future regulatory role of the commonwealth over such industries including, but not limited to, requiring the department of telecommunications and energy to promulgate model rules and regulations governing the conduct, operation, and rate structure of merged regulated industries including, but not limited to, merged electric and cable television companies, merged electric and gas companies, and merged telephone and cable television companies, and the impact of such merged industries on consumers. Said commission shall issue an initial report to the joint committee on government regulations on or before July 1, 1999.

SECTION 7A. Item 4000-0122 of section 2 of chapter 194 of the acts of 1998 is hereby amended by striking out the figure "\$1,000,000" and inserting in place thereof the following figure:- \$1,775,000.

SECTION 8. Section 5 of this act shall take effect on December 31, 2005.

SECTION 9. Sections 2A, 3, 4 and 6 of this act shall take effect as of July 1, 1998.

Approved January 15, 1999.

Chapter 482. AN ACT MAKING CERTAIN APPROPRIATIONS FOR THE FISCAL YEAR 1999.

Be it enacted, etc., as follows:

SECTION 1. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 1999 and for certain other activities and pro-

jects in said fiscal year, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise herein or in said appropriation acts for the several purposes and subject to the conditions specified herein or in said appropriation acts and subject to the provisions of law regulating the disbursement of public funds, for the fiscal year ending June 30, 1999. The sums appropriated herein shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

SECTION 2.
EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.
Department of Veterans' Services.

1410-0300 \$61,750

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.
Office of the Secretary.

2000-0100 \$200,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.
Department of Transitional Assistance.

4406-3000 \$138,000

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations and to meet certain requirements of law, the sums set forth herein shall be appropriated from the general fund unless specifically designated otherwise and shall be for the several purposes and subject to the conditions specified herein and subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in the general appropriation act or other appropriation acts for the fiscal year ending June 30, 1999. The sums appropriated herein shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE
Reserves.

1599-3880 For a reserve to meet the fiscal year 1999 cost of salary adjustments authorized by the collective bargaining agreement between the University of Massachusetts and the Graduate Employees Organization, Local 2322/UAW; provided, that the secretary of administration and finance shall transfer from the sum appropriated herein such amounts as are necessary to meet such costs; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall charge to the Collective Bargaining Reserve Fund expenditures from the accounts receiving transfers from this item in amounts equal to the amounts of such transfers \$470,000
Collective Bargaining Reserve Fund 100.0%

Department of Economic Development.

7007-1001 For a one time supplemental payment for the additional expenses of the Massachusetts Sports Partnership, Inc.; provided, that the funds appropriated in this item shall be in addition to funds made available to said Massachusetts Sports Partnership pursuant to item 7007-0950 of section 2 of chapter 194 of the acts of 1998 \$200,000

SECTION 3. Item 2000-0100 of section 2 of chapter 194 of the acts of 1998 is hereby amended by adding the following words:- ; provided further, that not more than \$200,000 shall be expended for a matching grant to the town of Rowley to acquire in the town of Rowley a 54-acre property identified as Map 4, Block 12, also known as 64 Pingree Farm Road, and a 34-acre property identified as Map 5, Block 84, also known as 29 Boxford Road, for conservation, open space preservation, and wellfield protection; provided further, that said \$200,000 shall not be so expended until equal matching funds are available to said town for said acquisitions; provided further, that said amount shall be in addition to any other amount expended by any public agency for said acquisitions.

SECTION 4. This act shall take effect upon its passage.
Approved January 15, 1999.

Chapter 483. AN ACT RELATIVE TO CHILD SUPPORT.

Be it enacted, etc., as follows:

SECTION 1. Chapter 273 of the General Laws is hereby amended by inserting after section 15A the following section:-

Section 15B. Whoever receives or conceals an asset of another knowing that said asset is being transferred for the purpose of concealing it to avoid payment of an order or judgment for support issued pursuant to the provisions of chapter 119, 207, 208, 209, 209A, 209C, 209D or 273, or pursuant to any similar laws of other states, shall be punished by a fine of not more than \$5,000 or by imprisonment in a jail or house of correction for not more than two and one-half years, or by both such fine and imprisonment; and whoever transfers an asset for the purpose of concealing it to avoid payment of an order or judgment for support issued pursuant to said chapter 119, 207, 208, 209, 209A, 209C, 209D or 273, or pursuant to any similar laws of other states shall be punished by a fine of not more than \$5,000 or by imprisonment in a jail or house of correction for not more than two and one-half years, or both such fine and imprisonment. The court may in the alternative to the foregoing punishment divert the defendant to a program as defined in section 1 of chapter 276A.

SECTION 2. Chapter 231 of the General Laws is hereby amended by inserting after section 85Y the following section:-

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Section 85Z. A person who has been adjudged to be in contempt of an order or judgment for child support entered pursuant to chapter 119, 207, 208, 209, 209A, 209C, 209D or 273 who knowingly makes a conveyance without fair consideration to an individual shall be liable in a civil action to the obligee under said order or judgment in an amount equal to the value of the conveyance made.

A person shall not be liable hereunder if the conveyance made does not exceed \$100 in value in any calendar year.

For the purpose of this section, conveyance shall mean any payment of money, gift, assignment, transfer or lease of tangible or intangible property.

A conveyance shall be deemed to be made without fair consideration unless the conveyance was made in exchange for property or goods of equal value or to satisfy an existing debt created in good faith.

Approved January 15, 1999.

Chapter 484. AN ACT RELATIVE TO FIRE DEPARTMENTS.

Be it enacted, etc., as follows:

Chapter 48 of the General Laws is hereby amended by striking out section 44A, as appearing in the 1996 Official Edition and inserting in place thereof:-

Section 44A. No city or town or the Massachusetts Port Authority or the Massachusetts Development Finance Agency shall contract with a private for-profit firefighting unit to operate within said city or town or on property controlled by said authority or said agency, unless said unit has been certified by the department of public safety. Nothing in section shall prevent or preclude said Massachusetts Port Authority from the continuous operation of its airports in accordance with federal law.

Approved January 15, 1999.

Chapter 485. AN ACT REFORMING THE TAX LAWS OF THE COMMONWEALTH.

Be it enacted, etc., as follows:

SECTION 1. Chapter 14 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after section 7 the following section:-

Section 8. To promote the fair and equitable enforcement of the tax laws of the commonwealth, the commissioner shall establish annual training programs for all employees of the department of revenue, including those in managerial or supervisory positions, who

work directly in tax administration, in particular those in the audit, customer service and legal bureaus. Such training shall be designed to ensure that audits are conducted on a consistent basis and that information provided to taxpayers is accurate. Further, the commissioner shall establish periodic training programs to ensure that all employees who work directly in tax administration are informed of and understand the department of revenue's policy concerning recent developments in the tax law, including the department of revenue's interpretation of recent court decisions and regulatory changes.

SECTION 2. The General Laws are hereby amended by striking out chapter 58A and inserting in place thereof the following chapter:-

CHAPTER 58A.

APPELLATE TAX BOARD.

Section 1. There shall be in the executive office of administration and finance, but not subject to its control in the conduct of its adjudicatory functions, an appellate tax board, in this chapter referred to as the board, consisting of five members, appointed by the governor, with the advice and consent of the council, who shall be appointed for six year terms from March first in the year of appointment. The governor, with the advice and consent of the council, shall designate one of the members as chairman of said board, in this chapter referred to as the chairman. Upon the expiration of the term of office of a member, his successor shall be appointed in a manner aforesaid for a term of six years. The chairman shall receive as compensation 75 per cent of the salary received by the chief administrative justice of the trial court, and each other member of the board shall receive as compensation, 75 per cent of the salary received by an associate justice of the trial court as provided in section 4 of chapter 211B.

Members shall devote their full time during business hours to the duties of their offices. All members of the board shall devote their time during office hours to the work of the board. No member of the board, while a member, shall act as attorney, counselor or accountant in any contested matter before the department of revenue, before any board of assessors, before the courts of the commonwealth or the federal courts. Not more than three members of the board shall be members of the same political party.

A member may be removed by the council, upon request of the governor and upon notice and hearing, for neglect of duty, inability to perform duties, malfeasance in office, or for other good cause.

Members shall be subject to an annual written performance evaluation to be completed by the chairman. In addition to the standard criteria applicable to the evaluation of equivalent grade managers employed by the commonwealth, members shall also be evaluated upon: efficiency and fairness in the conduct of hearings; promptness in issuing decisions in single member and small claims cases; the ability to coordinate, oversee, draft and otherwise contribute to the expeditious issuance of written findings of fact and reports with the assistance of the legal department in cases assigned to the member; the total number of proceedings of comparable matters handled and orders and decisions issued in those matters; contributions to the management and reduction of the board's caseload; any written

complaints or commendations received and verified; compliance with this chapter and other applicable chapters of the General Laws; and other information that may be relevant. The chairman shall take into consideration the complexity of cases in making his evaluation. Such performance evaluation may be used as evidence of a member's inability to perform his duties.

The chairman shall be subject to an annual written performance evaluation to be completed by the governor's chief legal counsel that includes evaluation of the management of the board's caseload, the ability to manage effectively the daily operations of the board, and the personnel of the board, and the evaluation criteria applicable to members of the board, as appropriate. Such performance evaluation may be used by the governor as evidence of a chairman's inability to perform his duties.

The chairman, with the advice and consent of the governor's council, shall be authorized, subject to appropriation, to hire additional members on a full-time, temporary basis to hear such cases as may be heard by a single member as outlined in section 1A. For purposes of this section, temporary basis shall mean for a one year period and such period may be extended for an additional year by the chairman, if necessary. Any member of the board, hired on a temporary basis, shall devote his full time during business hours to the duties of the office. A temporary member of the board shall devote his whole time during office hours to the work of the board, and shall not act as attorney, counsellor or accountant in any contested matter before the department of revenue, before any board of assessors, before the courts of the commonwealth, or before the federal courts. Said member shall receive 90 per cent of the annual compensation of appointed members as outlined in section 1.

A vacancy in the board shall not impair its powers nor affect its duties. The board shall have a seal that shall be judicially noticed.

Section 1A. The majority of the members of the board shall constitute a quorum for the transaction of its business. For purposes of this section, temporary members shall not be counted for purposes of a quorum, and shall not vote on board matters other than upon specific cases to which they are assigned by the chairman. A single member of the board may decide the following types of cases:

(i) cases on appeal from a board of assessors where the assessed value of the property involved does not exceed \$500,000;

(ii) cases on appeal from a board of assessors where the assessed value exceeds \$500,000 but does not exceed \$750,000 when the appellant and appellee gives written consent to a decision by a single member;

(iii) cases heard under the informal procedure in which the assessed value is less than \$1,000,000 as provided in section 7A or the small claims procedure as provided in section 7B. In any such appeal, upon request and upon the filing of such written consent the appeal shall be advanced for speedy hearing.

Such decision shall be signed by the single member of the board who presided at the hearing, and such case shall be attributed to said single member for tracking and evaluation purposes.

Section 2. The principal office of the board shall be in Boston but said board may sit at any place within the commonwealth. The time and place of its meetings shall be prescribed by the chairman, and the chairman shall assign all members for the hearings held outside of Boston on a rotating basis, taking into consideration the expertise, qualifications, travel involved and needs of the entire board when determining the rotation. The county commissioners shall provide the board with suitable rooms in courthouses or other buildings when necessary for hearings outside the city of Boston. Adequate offices and a hearing room in the state house or elsewhere in said city shall be provided for the board.

Section 3. The board shall provide for the publication and sale or distribution of such of its reports and opinions as are of public interest, in such form and manner as it may deem best adapted for public convenience and use, upon such terms and conditions as may be approved by the governor and council.

Section 4. The board shall report annually to the general court such suggestions and recommendations for the amendment, alteration and modification of existing laws relative to taxation and related matters, as it may deem desirable, and shall include in such report a statement of the number and type of matters handled by it during the preceding state fiscal year and the number of matters pending at the end of the year. Such report shall further provide the aggregate number and type of cases assigned to each member, the manner by which the case was disposed of and the average length of time for issuing a decision from the date of the close of the record.

Section 5. The members and employees of the board shall receive their necessary and reasonable traveling expenses and such other expenses, including subsistence actually incurred while traveling outside the city of Boston in the performance of their duties.

For purposes of this section, overnight accommodations for travel within a 50 mile radius of Boston shall not be considered reasonable.

Section 5A. Subject to appropriation, the chairman shall appoint five attorneys and may appoint such other employees, including clerks, and make such other expenditures including computer training, as he deems necessary in order to execute efficiently the functions vested in said board.

Any clerk or assistant clerk employed by the board as of July 1, 1996 shall hold office during good behavior, subject, however, to retirement under the provisions of any applicable general or special law relative to retirement systems. A clerk or assistant clerk may be removed by the chairman, upon notice and hearing, for neglect of duty, inability to perform duties, or malfeasance in office, but for no other cause. All clerks or assistant clerks hired after July 1, 1996 shall be deemed employees at will.

All expenditures of the board shall be allowed and paid out of moneys appropriated for the purpose of the board, upon presentation of itemized vouchers therefor, signed by the chairman or a person designated by the board for the purpose.

Section 6. The board shall have jurisdiction to decide appeals under the provisions of: section 42E of chapter 40; sections 2 and 14 of chapter 58; clauses Seventeenth and Twenty-second of section 5 of chapter 59; sections 7, 7A, 39, 64, 65, 65B, 73 and 81 of said

chapter 59; section 2 of chapter 60A; section 14 of chapter 61B; sections 39, 67 and 68 of chapter 62C; section 2 of chapter 63; section 26 of chapter 65; section 4 of chapter 65A; any other provision of law wherein such jurisdiction is or may be expressly conferred.

Except as otherwise provided by law, no appeal to the board shall stay the collection of any tax or excise.

Whenever a board of assessors, before whom an application in writing for the abatement of a tax is pending, fails to act upon said application, except with the written consent of the applicant, prior to the expiration of three months from the date of filing of such application, it shall then be deemed to be denied, and the taxpayer shall have the right, at any time within three months thereafter, to take any appeal from such denial to which he may be entitled by law, in the same manner as though the board of assessors had in fact refused to grant the abatement applied for. After the expiration of said three months from the date of filing such application, the board of assessors shall have no further authority to act upon said application; provided, however, that during the period allowed for the taking of an appeal, including instances where the application for abatement has been denied, the assessors may, by agreement with the applicant, abate the tax in whole or in part in final settlement of said application, and shall also have the authority granted to them by section 7 to abate, in whole or in part, any tax as to which an appeal has been reasonably taken.

Whenever the commissioner of revenue, before whom an application in writing for the abatement of tax is or shall be pending, fails to act upon said application prior to the expiration of six months from the date of filing of the same, it shall then be deemed to be denied unless the applicant shall have filed with the commissioner, prior to such expiration, his written consent to the failure of the commissioner to act on said application within said six months' period. Said consent may be withdrawn by the applicant at any time, in which event said application, unless previously acted on by the commissioner shall be deemed to be denied at the expiration of said six months' period or on the date of such withdrawal, whichever is later. The applicant, at any time within six months from the date on which any such application shall be so deemed to be denied by the commissioner, shall have the right to take any appeal from such denial to which he may be entitled by law in the same manner as though the commissioner had in fact refused to grant the abatement applied for. The commissioner shall have authority to act on any application after the date of any denial if the applicant has not seasonably taken an appeal from such denial. During the period allowed for the taking of an appeal, the commissioner may, by agreement with the applicant, abate the tax in whole or in part in final settlement of said application subject to the provisions of section 37A or 37C of chapter 62C.

Section 7. Any party taking an appeal to the board, hereinafter called the appellant, from a decision or determination of the commissioner or of a board of assessors, hereinafter referred to as the appellee, shall file a petition with the clerk of the appellate tax board and serve upon said appellee a copy thereof in the manner provided in section 9. No petition shall relate to an assessment on more than one parcel of real estate, except where the board shall specifically permit otherwise. Upon such appeal, the petition shall set forth specifically

the facts upon which the party taking an appeal, hereinafter called the appellant, relies, together with a statement of the contentions of law which the appellant desires to raise. The appellant shall state upon the petition the address at which service of any pleading, motion, order, notice or process in connection with the appeal can be made upon him. Within such time as the board by its rules may prescribe, the appellee shall file with the board an answer denying or admitting each and every allegation of fact contained in the petition; except that, in an appeal under section 64 or 65 of chapter 59, if the appellee desires to raise no issue other than the question whether there has been an overvaluation or improper classification of the property on which the tax appealed from was assessed, no answer need be filed. If no answer is filed in such a case, the allegation of overvaluation or improper classification of such property shall be held to be denied and all other material facts alleged in the petition admitted. If an answer is filed, a copy shall be served upon the appellant, in the manner provided in section 9. The party taking the appeal shall at the time of filing the petition pay to the clerk an entry fee for each appeal from a decision of the commissioner, or, in the case of an appeal from a decision of a board of assessors, an entry fee where the assessed fair cash valuation of the real property, or personal property, or both, the tax on which is sought to be abated, is \$50,000 or less; or an entry fee where such assessed fair cash valuation is in excess of \$50,000. The commissioner of administration shall annually determine the amounts of such entry fees under the provisions of section 3B of chapter 7. Except as provided in section 12C of this chapter, the board shall not consider, unless equity and good conscience so require, any issue of fact or contention of law not specifically set out in the petition upon appeal or raised in the answer. At any time before the decision upon the appeal by the board or by the appeals court under section 13, the appellee may abate the tax appealed from, in whole or in part, or change its determination subject to the provisions of section 37A or 37C of chapter 62C.

In the case of an appeal relating to property classified as either residential greater than eight units, or commercial or industrial, and which is assessed for more than \$200,000 in the previous fiscal year, upon the written request of the appellee, the appellant shall file with the board an income and expense statement for the most recent year preceding the valuation date at issue in the appeal, completed under oath, within 40 days of such request.

Section 7A. The board shall establish by rule an alternative procedure, hereinafter referred to as the informal procedure, for the determination of petitions for abatement of any tax upon real estate or tangible personal property, where such procedure is elected by both parties, except as hereinafter provided. Such procedure, to the extent that the board may consider practicable, shall eliminate formal rules of pleading, practice and evidence, and, except for the entry fee herein provided, may eliminate any or all fees and costs, or may provide that costs shall be in the discretion of the board.

An appellant desiring to be heard under the informal procedure shall pay to the clerk the entry fee provided in section 7, except as otherwise herein provided, and shall file: a written waiver of the right to appeal to the appeals court or the supreme judicial court, except upon questions of law raised by the pleadings or by an agreed statement of facts or shown

by the report of the board; an election of the informal procedure; a written statement of the facts in the case; and the amount claimed in abatement, together with such additional information as the clerk may require, hereinafter collectively referred to as the pleadings. The minimum entry fee shall be determined annually by the commissioner of administration under the provision of section 3B of chapter 7 if the assessed fair cash valuation of the property on which the tax appealed from was assessed does not exceed \$20,000 and such property is occupied in whole or in part by the appellant as his dwelling, contains no more than three units designed for dwelling purposes and is in no part used for any other purposes, or if the assessed valuation of the property on which the tax appealed from was assessed does not exceed \$5,000 and such property is within the class of tangible personal property described in clause Twentieth of section 5 of chapter 59.

The pleadings may be made on forms to be supplied by the board and, if the appellant so requests and the assessed fair cash valuation of the property concerned does not exceed \$20,000, shall be made out for the appellant by the clerk or an employee of the board designated by the board. The clerk shall then serve a copy of such pleadings upon the appellee. No further pleadings shall be required under this procedure if the appellee intends to offer no other defense than that the property was not overvalued or that the property was not improperly classified; otherwise, it shall file with the board within 30 days of the service of such pleadings an answer similar to that required under the procedure provided by section 7, hereinafter referred to as the formal procedure.

If the assessed fair cash valuation of the property concerned exceeds \$20,000, the appellee, within 30 days of the date of service of such pleadings, may elect to have the appeal heard under the formal procedure by so notifying the clerk in writing and by paying him a transfer fee to be determined annually by the commissioner of administration under the provision of section 3B of chapter 7, in which case said statement shall be considered to be a petition and such service to be service of the petition and the waiver of the right of appeal by the appellant shall be void. If the appellee does not so transfer the case, the informal procedure shall be deemed to have been accepted and all right of appeal waived by the appellee, except upon questions of law raised by the pleadings or by an agreed statement of facts or shown by the report of the board.

No statement under the informal procedure shall relate to an assessment on more than one parcel of real estate, except where the board shall specifically permit otherwise. The chairman shall provide for the speedy hearing of all appeals to be heard under the informal procedure. The chairman shall make every effort to reduce the expense of hearing cases filed under the informal procedure by directing whenever possible that petitions for abatement of taxes assessed upon real estate situated in the same general locality of the same town be heard together, irrespective of the identity of the appellants.

Section 7B. (a) The board shall establish by rule a further alternative procedure, hereinafter referred to as the small claims procedure, for the determination of petitions for abatement of any tax or excise to which the provisions of chapter 62C apply, as they are or may be specified in section 2 of said chapter 62C. The appellant may elect the small-claims

procedure in any case in which the amount of tax placed in dispute by the petition, does not exceed (1) \$5,000 for any taxable year, in the case of a tax imposed by taxable year; (2) \$5,000 for any calendar year, in the case of a tax imposed by calendar year; (3) \$5,000 for any calendar year, in the case of a tax imposed by chapters 64A to 64J, inclusive, and section 21 of chapter 138; (4) \$5,000 in the case of a tax imposed by chapter 65C; or (5) \$5,000 for any taxable event or transaction in the case of any other tax. For purposes of this section, the amount of any tax or excise placed in dispute does not include any interest, penalty, or addition to tax imposed by chapter 62C or any statute referred to in section 2 of said chapter. If, however, only the assessment or the amount of interest and/or penalties is in dispute, said interest and penalties shall not exceed \$5,000.

(b) Proceedings under the small-claims procedure shall be conducted as informally as possible in accordance with such rules of evidence, practice, and procedure as the board may prescribe. To the extent that the board may consider practicable, the small-claims procedure shall eliminate formal rules of pleading, practice, and evidence, and except for the entry fee herein provided, may eliminate any or all fees and costs, or may provide that costs shall be in the discretion of the board. The chairman shall provide for the speedy hearing of all appeals to be heard under the small-claims procedure.

(c) An appellant desiring to be heard under the small-claims procedure shall pay to the clerk a minimum entry fee as determined annually by the commissioner of administration under the provision of section 3B of chapter 7 and shall file an election of the small-claims procedure and a written statement of the facts of the case and of the amount claimed in abatement, together with such additional information as the clerk may require. The statement may be made on forms to be supplied by the board. The clerk shall then serve a copy of the statement upon the commissioner of revenue. The appellant shall also file a written waiver of the right to appeal to any court. Within 30 days of the service of the statement or at such other time as the board may order, the commissioner of revenue shall file with the board an answer similar to that required under the formal procedure provided by section 7.

(d) Any case in which the appellant has filed an appeal under the small-claims procedure, as provided in subsection (c) above, shall be designated and docketed as a small-claims case. With the concurrence of the board, the proceedings therein shall be conducted as a small-claims case in accordance with this section.

(e) At any time before the commencement of the hearing, the board on its own motion or on the motion of a party to the appeal may order that the small-claims designation be removed and that the proceedings be transferred to the formal procedure under section 7. In addition, at any time before a decision is entered, the board shall discontinue further proceedings under this section if it finds (1) that there are reasonable grounds for believing that the amount of tax placed in dispute exceeds the applicable jurisdictional amount as described in subsection (a), and (2) that the amount of the excess is large enough to justify granting the request. The commissioner, by motion, may also request a matter be removed from the small claims procedure if: (1) there is a recurring issue of law; and (2) the aggregate

tax at issue, taking into account similarly situated taxpayers, is over \$200,000. Upon any such removal or discontinuance, proceedings in the case shall be transferred to the formal docket and conducted under the formal procedure provided by section 7, in which case the statement required by subsection (c) shall be considered to be a petition, its service to be service of a petition, and the waiver of the right of appeal to be void. If the small-claims designation is not removed and proceedings under this section are not discontinued, the small-claims procedure shall be deemed to have been accepted and all right of appeal waived by both parties.

(f) The board shall make a decision in each case heard by it under the small-claims procedure, giving a brief written summary of the reasons therefor. No decision shall grant an abatement of tax exceeding the amount of tax placed in dispute within the limits prescribed in subsection (a). Where the amount of tax which the commissioner has refused to abate exceeds the limits imposed by subsection (a), the appellant may nevertheless elect the small-claims procedure; provided, however, that such election shall, unless the small-claims procedure is discontinued pursuant to subsection (a), foreclose all rights to an abatement of any amount of tax in excess of such limits and all interest, penalties, or additions to tax imposed by chapter 62C related to such excess.

(g) A decision entered in any case in which the proceedings are conducted under this section shall not be reviewed in any court and shall not be treated as precedent for any other case.

Section 8. A hearing shall be granted if any party to an appeal so requests, and upon motion of any party to an appeal, or by direction of the board, any appeal may be set down for a hearing. Hearings may be held before less than a majority of the members of the board and the chairman may assign members to hold hearings. Hearings before the board, or any member thereof, shall be open to the public and such hearings and all proceedings shall be conducted in accordance with such rules of practice and procedure as the board may make and promulgate; provided, however, that such rules and amendments thereto shall comply with the filing provisions of section 5 of chapter 30A and such rules and amendments shall not take effect until so filed. The chairman may direct that two or more petitions for abatement of the taxes assessed upon real estate situated in the same general locality of the same town be heard together, irrespective of the identity of the appellants.

Section 8A. Before the hearing of a petition for the abatement of a tax upon real estate, machinery or other tangible property, the appellant shall permit the appellee personally or by attorneys, experts or other agents, to enter upon such real estate or upon any premises where such personal property is situated and examine and inspect such real estate or personal property, including any property which the appellant claims is exempt from taxation. In case of doubt or uncertainty as to the identity of the property, the appellant shall point out to the appellee the property to which the appeal relates. In the event the appellant refuses to permit the appellee to inspect said property, the board may dismiss the appeal. Sections 61 to 70, inclusive, of chapter 231 shall apply to all appeals before the board except

those conducted under the informal procedure provided by section 7A or under the small claims procedure provided by section 7B of this chapter. At least 30 days prior to the hearing of a petition for the abatement of a tax, upon a motion filed by either party and granted by the board, or by direction of the board, the appellant and appellee shall exchange appraisal reports concerning the property.

In any pending appeal where jurisdiction is established, the board, with the consent of all parties, may in its discretion employ alternative dispute resolution techniques including, without limitation, mediation and arbitration. Said alternative dispute resolution techniques shall be conducted upon such terms and conditions as are established by the parties with the approval of the board.

Section 9. The mailing by first class mail, postage prepaid, to the address of any appellant as given on the petition upon appeal, or to the address of his attorney or agent of record, if any, or to the usual place of business of the commissioner or of the board of assessors, or its agent or attorney of record, shall be deemed sufficient service of any pleading, motion, order, notice or process so served in respect to proceedings before the board. The board may order that further notice or notice by other means be given in any case.

Section 10. At the request of any party made before any evidence is offered, or by direction of the board, the board shall order that all proceedings in a pending appeal be officially recorded. The board shall employ transcription methods including, without limitation, electronic transcription equipment, for the purpose of recording or reporting proceedings before the board. The board may contract for the reporting of such proceedings at the expense of the commonwealth in the first instance, but shall collect the cost thereof from the persons requesting that the proceedings be recorded. In such contract the board may provide that one or more copies of the transcript be supplied to the board without cost to the commonwealth, and may fix the terms and conditions upon which transcripts will be supplied to other persons and agencies by the official recorder. No proceedings shall be recorded or transcribed officially until an amount equal to the cost thereof, as estimated by the clerk, shall have been deposited with him at such times and in such manner as may be provided by the rules of the board. Any excess deposit over the actual cost shall be returned to the depositor by the clerk. If no party requests that the proceedings be reported, all parties shall be deemed to have waived all rights of appeal to appeals court or the supreme judicial court upon questions as to the admission or exclusion of evidence, or as to whether a finding was warranted by the evidence. The right of appeal upon questions of law raised by the pleadings or by an agreed statement of facts or shown by the report of the board shall not be deemed to be waived. For its own information only, the board may, subject to appropriation, have stenographic notes of hearings taken and may have transcripts thereof prepared in proceedings which are not officially reported at the request of a party.

Section 11. Any member of the board, or any employee of the board designated in writing for the purpose by the chairman, may administer oaths, and any member of the board

may summon and examine witnesses and require, by subpoena signed by the member, the production of all returns, books, papers, documents, correspondence and other evidence, pertinent to the matter under inquiry, at any designated place of hearing, and may require the taking of a deposition before any person competent to administer oaths, either within or without the commonwealth. In the case of a deposition, the testimony shall be reduced to writing by the person taking the deposition or under his direction and shall then be subscribed by the deponent.

Either party may summon witnesses or may require the production of papers in the same manner in which witnesses may be summoned and papers may be required to be produced for the purpose of trials in the superior courts of the commonwealth. Any witness summoned or whose deposition is taken shall receive the same fees and mileage as witnesses in said courts.

Section 12. Witness fees and expenses of service of process may be taxed as costs against the unsuccessful party to the appeal, in the discretion of the board. In the event that the commonwealth, or any official thereof, is the unsuccessful party to an appeal, the costs shall be paid from the state treasury upon certificate of a member of the board in such form as the board may prescribe by regulation. In the event that a subdivision of the commonwealth, or any official thereof, is the unsuccessful party to an appeal, the costs shall be paid from the treasury of such subdivision by the treasurer thereof upon the certificate of a member of the board in such form as the board may prescribe by regulation. In the event that the costs are taxed against an unsuccessful taxpayer, a member of the board shall certify the amount of the same and the costs may be recovered in an action of contract by the state treasurer in the case of a tax assessed by the commissioner, or by the treasurer of the subdivision of the commonwealth in the case of a tax assessed by the subdivision.

Section 12A. If the owner of a parcel of real estate files an appeal of the assessed value of said parcel with the board for either of the next two fiscal years after a fiscal year for which the board has determined the fair cash value of said parcel and if the assessed value is greater than the fair cash value as determined by the board, the burden shall be upon the appellee to prove that the assessed value was warranted and upon failure of the appellee to do so, the board may, in its discretion, tax as costs against the appellee, in addition to witness fees and expenses of service of process, the whole or any part of the reasonable expense of the taxpayer incurred in the preparation, entry and trial of his appeal. Should the board find that the assessed value was warranted, then it may tax such costs of the appellee against the appellant. Such costs shall be certified and paid as provided in section 12.

Section 12B. At any hearing relative to the assessed fair cash valuation or classification of property, evidence as to the fair cash valuation or classification of property at which assessors have assessed other property of a comparable nature or class shall be admissible.

Section 12C. In any appeal relative to the assessed valuation of property, the reports of the ratios which assessments in the city or town bear to the fair cash value of each class of property therein and the ratio which the total assessed value bears to the total fair cash value therein as determined by the commissioner's report made pursuant to sections 10 and 10C of chapter 58 shall be admitted into evidence by the appellate tax board on its own

motion and shall be prima facie evidence of the assessment practices of the city or town and the ratios at which property is assessed for the year for which said determination is reported by the commissioner and for each following year until a new determination is reported by said commissioner under said section 10C.

The board may give an abatement, provided the evidence so warrants, on the basis of a disproportionate assessment even though that issue has not been raised by the pleadings.

Section 12D. Notwithstanding the provision of any general or special law to the contrary, in any appeal under the provisions of sections 64 or 65 of chapter 59 from the refusal of the assessors to abate a tax or reclassify any real or personal property by an electric company or gas company, both as defined in section 1 of chapter 164, upon motion of any party after an appeal has been filed but before decision is rendered concerning real or personal property of an electric or gas company for any fiscal year certified or following certification for classification by the commissioner under the provisions of section 56 of chapter 40 or any determination of the commissioner made pursuant to section 1A of chapter 58, the board shall properly classify all the taxable property at issue as either real or personal and determine the fair cash value of such property, and the tax that should have been paid, notwithstanding the assessors' original classification of such property or the amount or form of the tax bill received and paid; provided, however, that upon a determination that any property should be reclassified, the taxpayer shall be allowed to file an appeal late concerning the valuation of such property, if an appeal has not been previously filed, within 30 days of such determination and order of the board.

In any determination made under this section, the board shall make subsidiary findings of the proper classification of all taxable property at issue, as either real or personal, the fair cash value and the total taxes that should have been paid for each parcel or item of such property, reduced by abatements, if any, for each fiscal year. Upon such determination, the board shall further find the taxes that were paid or owed for such property at issue as it was originally assessed and taxed, and shall then allocate and credit such taxes as part or all of the taxes that should have been paid for such property as properly classified by it, and such allocation shall be binding on the taxpayer and the assessor and shall be deemed to be the original tax assessed and owed, subject only to any appeal taken pursuant to section 13; provided, however, that if the total amount of taxes that should have been paid under the board's de novo determination under this section is equal to or greater than the amounts actually paid or owed, as determined under this section, the appellant shall not be entitled to an abatement, notwithstanding the local assessor's original tax classification of the taxable property or the form of the original bill received and paid. Upon a determination under this section, the existing official records of the city or town shall be amended and corrected, and assessments and tax bills shall be deemed to have been issued in conformance with the board's determination.

Section 13. The board, or a single member of the board acting pursuant to the authority outlined in section 1A shall make a decision in each appeal heard by it within three months from the close of the record including submission of briefs and may make findings of fact and report thereon in writing. In any appeal in which the hearing is officially recorded

pursuant to section 10, or in any appeal from the commissioner of revenue other than cases heard under the small claims procedure pursuant to section 7B, the member may take an additional three months to issue a decision. In every decision granting an abatement without findings of fact and report which relates to a tax on land with one or more buildings thereon, the board shall, if so requested by the appellee in writing at the commencement of the hearing, state separately the value of the land and of each building.

Except in cases heard under the informal procedure authorized by section 7A, or under the small-claims procedure authorized under 7B, the board shall make such findings and report thereon if so requested by either party within ten days of a decision without findings of fact and shall issue said findings within three months of the request, provided, however, the board, in its discretion, may extend the time for issuing said findings and report for an additional period not to exceed three months, upon written notice to both parties setting forth the reason for the extension. In extraordinary circumstances or with consent of all parties to the proceeding, the board may have whatever additional time is necessary for issuance of such findings of fact and report. Such report may, in the discretion of the board, contain an opinion in writing, in addition to the findings of fact and decision. If no party requests such findings and report, all parties shall be deemed to have waived all rights of appeal to the appeals court upon questions as to the admission or exclusion of evidence, or as to whether a finding was warranted by the evidence. All reports, findings and opinions of the board and all evidence received by the board, including a transcript of any official report of the proceedings, all pleadings, briefs and other documents filed by the parties, shall be open to the inspection of the public; except that the originals of books, documents, records, models, diagrams and other exhibits introduced in evidence before the board may be withdrawn from custody of the board in such manner and upon such terms as the board may in its discretion prescribe. The decision of the board shall be final as to findings of fact. Failure to comply with the time limits, as outlined above, shall not affect the validity of the board's decision.

From any final decision of the board except with respect to decisions of the board under sections 25 and 26 of chapter 65, an appeal as to matters of law may be taken to the appeals court by either party to the proceedings before the board so long as that party has not waived such right of appeal. A claim of appeal shall be filed with the clerk of the board in accordance with Massachusetts Rules of Appellate Procedure which rules shall govern such appeal. The court shall not consider any issue of law which does not appear to have been raised in the proceedings before the board.

If the order grants an abatement of a tax assessed by the commissioner and the tax has been paid, the amount abated with interest computed in accordance with section 40 of chapter 62C, and if costs are ordered against the commissioner, the amount thereof, shall be paid to the taxpayer by the state treasurer. If the order grants an abatement of a tax assessed by the board of assessors of a town and the tax has been paid, the amount abated with interest at the rate of 8 per cent per annum from the time when the tax was paid, and if costs are ordered against a board of assessors, the amount thereof, shall be paid to the taxpayer by the

town treasurer, and, if unpaid, execution therefor may issue against the town as in actions at law. If costs are ordered against a taxpayer execution shall issue therefor. The appeal to the appeals court under this section shall be the exclusive method of reviewing any action of the board, except action under sections 25 and 26 of chapter 65. For want of prosecution of an appeal in accordance with the provisions of this section the board, or, if the appeal has been entered in the appeals court, a justice of that court, may dismiss the appeal. Upon dismissal of an appeal, the decision of the board shall thereupon have full force and effect.

Section 14. In cases where the board finds that a taxpayer is being assessed disproportionately with respect to other properties within the same city or town, the board shall compute the measure of damages in the following manner:

(1) by computing an equalized tax rate by dividing the total taxes as assessed for that city or town for the year for which the finding was made by the fair cash value of the city or town, which shall in no event be higher than the equalized value as finally reported to the general court pursuant to section 10C of chapter 58 for that city or town in the year next preceding the year for which the finding was made.

(2) by applying the rate as computed in accordance with subsection 1 to the fair cash value of the property and thereby determine the taxes which should have been paid.

(3) by subtracting the amount of taxes which should have been paid from those actually paid or assessed.

In such cases within a city or town that has been certified for classification by the commissioner under the provisions of section 56 of chapter 40 and has implemented such classification system the measure of damages shall be computed on the basis of the tax rate of the class in which a property has been assessed or should have been assessed, as the case may be.

SECTION 3. Section 64 of chapter 59 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 14, the words "two thousand dollars" and inserting in place thereof the following figure:- \$3,000.

SECTION 4. Said section 64 of said chapter 59, as so appearing, is hereby further amended by inserting after the word "appeal" in line 35, the following words:- including instances where the application for abatement has been denied,.

SECTION 5. Subparagraph (4) of paragraph (a) of subsection B of section 3 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out, in line 60, the word "provided" and inserting in place thereof the following words:- to the extent.

SECTION 6. Section 13 of chapter 62B of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the word "less" and inserting in place thereof following words.- reduced by the total amount of the credits allowed under section 6 of chapter 62 to which the taxpayer estimates he will be entitled and further reduced by.

SECTION 7. Subsection (a) of section 14 of said chapter 62B, as so appearing, is hereby amended by inserting after the word "rate", in line 4, the following words:- but without daily compounding and on a per annum basis.

SECTION 8. Subsection (d) of said section 14 of said chapter 62B, as so appearing, is hereby amended by striking out clause (i), and inserting in place thereof the following clause:-

(i) the tax shown on the return for the taxable year less the amount of the credits allowed by section 9 of this chapter and section 6 of chapter 62 is less than \$200 or, if no return is filed, the amount of tax less the amount of the credits allowed by section 9 of this chapter and section 6 of chapter 62 is less than \$200.

SECTION 9. Section 3 of chapter 62C of the General Laws, as so appearing, is hereby amended by adding the following three paragraphs:-

Within four months of a final court decision interpreting Massachusetts tax law, the commissioner shall issue a technical information release setting forth the department of revenue's position relative to said court decision. The time for issuing a final technical information release may be extended where the commissioner has submitted a draft release for public comment or has determined regulatory action is required. A technical information release shall not be required where the decision relates solely to jurisdiction, confirms a long-standing policy of the department of revenue or affects the interest of the immediate taxpayer only.

The commissioner shall issue letter rulings within 120 days of the receipt of a written request by a taxpayer. If the commissioner determines that additional time is needed to respond to the request for a letter ruling, he shall notify the taxpayer in writing and specify a date on which the ruling will be issued. Any taxpayer requesting a letter ruling shall provide the commissioner with all information necessary to make such ruling.

The commissioner shall provide public notice to taxpayers of any changes in the tax law, including but not limited to, changes in department of revenue policy, regulatory changes, recent court decisions and the department of revenue's policy with regard to recent court decisions by making all regulations, technical information releases, letter rulings, directives, guides and other publications available to the public at the department and at other public facilities at the discretion of the commissioner. Public notice may include publication on the internet. Any regulation made available to the public shall be accompanied by a fact sheet or other summary explaining the provisions of the regulation.

SECTION 10. Subsection (b) of section 26 of said chapter 62C, as so appearing, is hereby amended by inserting after the word "assessed", in line 13, the following words:-
; provided, however, that said three year period for making an assessment shall be suspended during the period of time that the taxpayer has a bankruptcy case pending under the appropriate chapters of Title 11 of the United States Code.

SECTION 11. Said section 26 of said chapter 62C, as so appearing, is hereby further amended by adding the following subsection:-

(j)(1) The commissioner shall not make any assessment under this chapter if that assessment is based on a change in policy unless such change in policy first is announced to taxpayers pursuant to the promulgation of a validly adopted regulation or the issuance of a

technical information release, directive, administrative procedure or other similar public statement of equivalent formality that explains the change in policy. Further, no assessment based on a change in policy shall be made with respect to taxable years or periods that began prior to the issuance of a public written statement as provided in this paragraph.

(2) For purposes of this section, an assessment is based on a change in policy if it is contrary to a rule of law or the interpretation of a rule of law set forth in a regulation, technical information release, directive, administrative procedure, letter ruling, tax form, including instructions, or any other written guidance issued by the commissioner; provided, however, that the facts and circumstances on which the letter ruling was based are not materially different. A change in policy shall not occur when the commissioner merely applies a previously announced or established rule of law to the facts and circumstances of a particular taxpayer or transaction.

SECTION 12. Section 30 of said chapter 62C, as so appearing, is hereby amended by adding the following paragraph:-

For purposes of this section, a final determination of a change by the federal government may be initiated by the filing of an amended federal return by the taxpayer.

SECTION 13. Section 37A of said chapter 62C, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "Notwithstanding any other provision of law, prior to a court judgement or decision by the appellate tax board, the" and inserting in place thereof the following word:- The.

SECTION 14. Said section 37A of said chapter 62C, as so appearing, is hereby further amended by striking out subparagraph (a) and inserting in place thereof the following subparagraph:-

(a) The commissioner finds that there is serious doubt as to the collectibility of the tax due.

SECTION 15. Said section 37A of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 37, the word "case", and inserting in place thereof the following words:- matter which is the subject of such agreement.

SECTION 16. Said chapter 62C is hereby amended by inserting after section 37B the following section:-

Section 37C. (a) The commissioner may accept a lesser amount than the proposed or assessed tax liability in full and final settlement thereof; provided, however, that the following conditions are met:

(1) The commissioner finds that the settlement is in the best interests of the commonwealth, taking into account potential hazards of litigation and the likelihood of a finding of liability against the taxpayer; and

(2) the commissioner and the taxpayer agree in writing to the settlement.

(b) After the settlement agreement is signed, neither the taxpayer nor the commissioner shall be permitted to reopen the matter or matters which are the subject of an agreement except by reason of (1) fraud; (2) misrepresentation of a material fact; or (3) mutual mistake of a material fact sufficient to cause a contract to be reformed or set aside.

(c) The commissioner shall promulgate rules and regulations to carry out the provisions of this section, which rules and regulations shall include procedures for determining and approving of all settlements; provided, however, that all settlements under this section shall be approved by the commissioner.

(d) Any settlement under this section which is entered into after the commissioner has denied or is deemed to have denied an application for abatement filed pursuant to section 37 and which proposes to abate \$200,000 or more of the tax, not including interest and penalties, shall be submitted to the attorney general for review. Any such settlement proposal shall take effect 21 days after its receipt by the attorney general, unless the attorney general objects in writing to the settlement. In the event the attorney general objects to the settlement proposal, such settlement shall not take effect until the objection is resolved by the commissioner and the attorney general.

(e) Where, under the provisions of this section, an amount less than the amount of the assessed liability is accepted in full and final settlement of said liability, the commissioner shall abate the excess of such liability over the amount accepted in settlement.

(f) The commissioner of revenue shall report to the attorney general each settlement which is described in this section and which is less than \$250,000. Said report shall include the identity of the taxpayer, the type and amount of the tax and such other information as is necessary to convey the terms of and reasons for each such settlement. Said report is to be prepared on a quarterly basis and submitted to the attorney general no later than 45 days after the end of each calendar quarter.

SECTION 17. Section 40 of said chapter 62C, as so appearing, is hereby amended by striking out, in line 20, the word "ninety" and inserting in place thereof the following figure:- 45.

SECTION 18. Section 54 of said chapter 62C, as so appearing, is hereby amended by adding the following subsection:-

(e) The commissioner may, in his discretion, reimburse a taxpayer for any fee or similar amount charged to the taxpayer by a bank or financial institution where such fee or charge proximately resulted from the commissioner's improper or erroneous service of a notice of lien or levy on such bank or financial institution.

SECTION 19. Section 65 of said chapter 62C, as so appearing, is hereby amended by adding the following paragraph:-

For bankruptcy cases under relevant chapters of Title 11 of the United States Code, the running of the period of limitations in this section on collections shall be suspended for the period during which the commissioner is prohibited by reason of such case from collecting the tax, and for the period during which a plan for payment of the tax is in effect, and for six months thereafter.

SECTION 20. Section 33 of chapter 64H of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following:- Such claim for reimbursement, covering the amount of excise paid on accounts determined to be worthless in the vendor's prior fiscal year, shall be filed on or before the due

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date, including extensions, of the federal income tax return (or annual filing in the case of an exempt organization) for such prior fiscal year.

SECTION 21. Section 24D of chapter 175 of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following paragraph:-

For the purposes of this section, the word "claimant" shall mean an individual who brings a claim against a insured under a liability insurance policy or the liability coverage portion of a multiperil policy, or a beneficiary under a life insurance policy. The governor shall appoint a committee consisting of the commissioner of revenue or his designee, the commissioner of insurance or his designee and a representative of the property insurance industry. Said committee shall present a report to the legislature not later than December 31, 1998 on the projected amount of child support collections that would result from adding first party claims under non-commercial policies to the system established by this section.

SECTION 22. The time standards set forth in section 13 of chapter 58A of the General Laws shall not apply to cases where there has been a close of the record as of the effective date of this act; provided, however, that every effort shall be made to apply such time standards to matters pending before the board on the effective date of this act.

SECTION 23. Sections 1 to 20, inclusive, shall take effect on January 1, 1999.

SECTION 24. Item 2440-8961 of section 2 of chapter 15 of the acts of 1996 is hereby amended by striking out the words "and provided further, that no such improvements or facilities shall be constructed without the prior approval of the governing body of the city or town in which said improvement or facility will be located" and inserting in place thereof the following words:- and provided further, that no such improvements or facilities, whether in whole or in part or whether in stages according to a schedule or plan, and no matter the source of such funds, shall be constructed without the prior approval, at the time of such improvement, whether whole or in part or whether in stages according to a schedule or plan, of the governing body of the city or town in which said improvement or facility will be located; and provided further, that the metropolitan district commission shall not apply for any federal funds or use any state or federal funds for such improvements or facilities, as described in the Neponset river master plan, without the prior approval of the governing body of the city or town in which said improvement or facility will be located.

Approved January 15, 1999.

Chapter 486. AN ACT MAKING CHANGES TO CERTAIN LAWS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make forthwith certain changes in certain laws, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 6 of chapter 64H of the General Laws, as amended by section 1 of chapter 313 of the acts of 1998, is hereby further amended by striking out paragraph (f) and inserting in thereof the following paragraph:-

(f) Sales of building materials and supplies to be used in the construction, reconstruction, alteration, remodeling or repair of (1) any building structure, public highway, bridge or other public works owned by or held in trust for the benefit of any governmental body or agency mentioned in paragraph (d) and used exclusively for public purposes; (2) any building or structure owned by or held in trust for the benefit of any corporation, foundation, organization or institution described in paragraph (e) and used exclusively in the conduct of its religious, scientific, charitable or educational purposes; and (3) any building, structure, residence, school or other facility included under any written contract dated on or after January 1, 1985 arising out of or related to the Massachusetts Port Authority residential and school soundproofing programs, notwithstanding whether such building, structure, residence, school or other facility is owned by or held in trust for the benefit of the Massachusetts Port Authority or is used exclusively for public purposes; provided, however, that such governmental body or agency or such corporation, foundation, organization or institution shall have first obtained a certificate from the commissioner stating that it is entitled to such exemption and the vendor keeps a record of the sales price of each such separate sale, the name of the purchaser, the date of each such separate sale and the number of such certificate. In this paragraph the words "building materials and supplies" shall include all materials and supplies consumed, employed or expended in the construction, reconstruction, alteration, remodeling or repair of any building, structure, public highway, bridge or other such public work, as well as such materials and supplies physically incorporated therein. Said terms shall also include rental charges for construction vehicles, equipment and machinery rented specifically for use on the site of any such tax exempt project or while being used exclusively for the transportation of materials for any such tax exempt project.

SECTION 2. Chapter 295 of the acts of 1996 is hereby amended by striking out sections 1 to 20, inclusive, as amended by section 268 of chapter 194 of the acts of 1998, and inserting in place thereof the following 22 sections:-

Section 1. The city of Pittsfield, by majority vote of its city council, may, subject to the provisions of this act, create a body corporate to be known as the Pittsfield Economic Development Authority, hereinafter referred to as the authority.

Section 2. The purposes of the authority shall be to acquire properties contaminated by oil or hazardous material, conduct response actions thereon and construct, develop, maintain, lease, convey or otherwise transfer such property for the beneficial reuse or development of such property to promote economic development on behalf of the city of Pittsfield. Said board, as defined herein, acting for and on behalf of said authority, may take by eminent domain under chapter 79 of the General Laws or acquire by purchase or otherwise any disposal site in the city of Pittsfield, or a portion thereof, as defined by sec-

tion 2 of chapter 21E of the General Laws, hereinafter referred to as chapter 21E and associated lands, properties, water rights, and rights of ways may c response actions pursuant to the requirements of said chapter 21E and regulations promulgated pursuant thereto; may construct, maintain or operate and lease such industrial or commercial facilities acquired by the authority; may sell, by negotiation with the city of Pittsfield or a private at public auction, any property, including land acquired by the authority pursuant to this act and which in the authority's opinion is no longer needed in the performance of the powers and duties conferred and imposed on it by this act; and may, from time to time, lease any property which in the authority's opinion is not needed for the purposes of this act; and may do things proper or necessary for the purposes of this act; provided, however, that the authority shall not take in fee any land of a railroad corporation and shall not enter upon or construct, maintain or operate any industrial or commercial facility within the location as it may agree up such corporation or, in the case of failure to agree, as approved by the department of telecommunications and energy.

Section 3. The authority may enter into agreements to indemnify and hold harmless future owners or operators of properties acquired by the authority pursuant to this act from and against liability pursuant to sections 4, 4A and 5 of chapter 21E of the General Laws with respect to any releases or threats of release of oil or hazardous material that first began to occur before such owners or operators acquire ownership or possession of the property; provided, however, that such indemnification shall not apply to any violation of or change to a restriction in use imposed on the property as part of a response action conducted by the authority. Notwithstanding any provision of said chapter 21E to the contrary, such owner or operator who acquires ownership or possession of property from the authority shall not be deemed an owner or operator for purposes of said chapter 21E with respect to any release or threat of release of oil or hazardous material that first began to occur at or from a property before the time that such owner or operator acquired ownership or possession; provided, however, that: (1) such owner or operator is a bona fide new owner or operator and is not affiliated with any other person potentially liable for response costs or damages to natural resources caused by such release or threat of release through any direct or indirect familial relationship or any contractual, corporate or financial relationship other than that created by the instruments by which title to the property is conveyed or financed; (2) such owner or operator provides reasonable access to the property to employees, agents and contractors of the department of environmental protection to conduct response actions and to other persons intending to conduct response actions; and (3) such owner or operator does not violate or fail to comply with any restriction on future use of the site imposed pursuant to section 6 of said chapter 21E and regulations promulgated pursuant thereto. When such owner or operator is not an owner or operator pursuant to this definition, any person who owned or operated the property immediately prior to the authority's acquisition of ownership or possession shall be deemed the owner or operator pursuant to said chapter 21E.

Notwithstanding any other provision of this definition, the authority's tenants, subtenants or other person using or acquiring a property from the owner may be deemed an

owner or operator with respect to any release or threat of release that first begins to occur at or from a property after the time that the authority takes ownership or possession of it for any purpose authorized by this act.

Section 3A. (a) Notwithstanding any other provisions of this act, the authority may, in its reasonable discretion, provide limited indemnification to any industrial corporation that has been the owner of any property located in the city of Pittsfield and which property has been conveyed to said authority by said corporation.

Any decision by said authority to provide such indemnity, and the terms of any such indemnification agreement, shall be limited by the provisions of this section. Pursuant to this subsection, with respect to any claim that arises from or is associated with the past ownership, use or occupancy of said property by said corporation, said authority may indemnify said corporation from and against (1) liability pursuant to chapter 21E of the General Laws, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. sections 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901 et seq., the Toxic Substances Control Act of 1976, 15 U.S.C. sections 2601 et seq., the Federal Water Pollution Control Act, 33 U.S.C. sections 1251 et seq., and the Clean Air Act, 42 U.S.C. sections 7401 et seq.; (2) liability for property damage or personal injury under the common law; and (3) any other claims for recovery of environmental remediation, or response costs; provided, however, that said authority shall not indemnify said corporation from and against any penalties that are assessed by any agency of state or federal government or by any regulatory authority; and provided, further, that said authority shall not indemnify said corporation from and against liability or costs that said corporation may incur in connection with any hazardous or other material at any property other than the property that said authority has acquired.

(b) Nothing in this section shall be interpreted as authorizing any immunity from suit or any defense from liability in connection with any claim raised by any third party against said corporation, limiting or altering the provisions of subsection (f) of section 5 of chapter 21E of the General Laws, or limiting the right of any party to bring any claim against said corporation. Nothing in this section shall be interpreted as giving rise to any liability or indemnification obligation on behalf of the commonwealth or any agency or political subdivision of the commonwealth, including, without limitation, the city of Pittsfield, but excluding said authority to the extent that said authority enters into said indemnification agreement.

(c) Said authority may, in its reasonable discretion, indemnify said corporation from and against claims for property damage, personal injury, or reimbursement for environmental remediation or response costs, where such damages, injuries or costs are caused by an act or failure to act of a subsequent owner, operator or tenant of such property that results in a release or threat of release of oil or hazardous material that is first discovered subsequent to the transfer of property to said authority; provided, however, that said authority shall (1) obtain insurance coverage in such amounts that it deems appropriate and commercially available to carry out or otherwise support any indemnification obligations it assumes, and

(2) determine that the public interest in the economic development of the city of Pittsfield will best be served by entering into such indemnification agreement.

(d) Before indemnifying or agreeing to indemnify said corporation as set forth in subsection (a), said authority shall first determine: (1) that said corporation has remediated said property, or has entered into enforceable agreements with state and federal agencies having regulatory authority over remediation plans and activities to remediate said property so as to presently comply, or be legally obligated to comply within a reasonable time, with the provisions of federal and state laws referenced in subsection (a); (2) that the authority shall obtain insurance coverage in amounts adequate to carry out or otherwise support any indemnification obligations it assumes, at a cost which, in its reasonable opinion, will not unduly burden or interfere with the operations of the authority; and (3) that the public interest in the economic development of the city of Pittsfield will best be served by entering into such indemnification agreement.

(e) Pursuant to this section, said authority shall not enter into any such indemnification agreement that will have the effect of indemnifying said corporation from and against liability for acts or failures to act of which said corporation was aware or should have been aware, in the exercise of due diligence, at the time of such indemnification agreement and which said corporation was under any statutory, regulatory or contractual obligation to disclose to said authority or to a state or federal agency or, regulatory authority with jurisdiction over environmental matters, but which it failed to disclose prior to entering into such indemnification agreement. Any provision of any such indemnification agreement between said authority and said industrial corporation which is contrary to the requirements of this subsection shall be void and shall be severed from such indemnification agreement as a violation of the public policy of the commonwealth; provided, however, that the remainder of such indemnification agreement, to the extent that it is not contrary with this subsection, shall remain in full force and effect.

Section 4. (a) The authority may enter into agreements with its response action contractors to indemnify and hold harmless its response action contractor against any liability for negligence, including legal fees and costs, if any, in an amount not to exceed a figure established by the indemnification agreement pursuant to the terms of this section. In no event shall the amount of indemnification to be provided under an indemnification agreement exceed \$2,000,000 for a single occurrence involving the release or threat of release of oil or hazardous material. No indemnification shall be provided pursuant to an indemnification agreement under this section if the response action contractor fails to meet the standard of care which is the degree of care that a reasonable and diligent hazardous waste site cleanup professional licensed pursuant to sections 19 and 19J, inclusive, of chapter 21A shall exercise when rendering a waste site cleanup activity opinion pursuant to said sections 19 and 19J or if the action or omission which gives rise to the claim is not within the scope of the response action contract.

(b) The indemnification provided under this section shall apply only to response action contractor liability arising out of response activity conducted by the response action contractor in response to a release or threat of release of oil or hazardous material.

Section 5. The authority shall be authorized to take or arrange for necessary response actions as determined by reference to the Massachusetts Contingency Plan, as defined in section 3 of chapter 21E of the General Laws, or for response actions as determined in reference to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601 et seq., the Resource Conservation and Recovery Act 42 U.S.C. 6901 et seq., the Toxic Substances Control Act of 1976, 15 U.S.C. 2601 et seq., amended by 15 U.S.C. 2642 et seq., the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., and the Clean Air Act, 42 U.S.C. 7401 et seq. The authority shall be entitled to reimbursement from any other person liable for such release or threat of release for the reasonable costs of such response actions, including all litigation costs and attorneys' fees. All claims for contribution, reimbursement or equitable share by the authority pursuant to this section and chapter 21E of the General Laws shall be brought in accordance with the procedures set forth in section 11A of said chapter 21E.

The authority may enter into agreements with prior owners or operators of a site or vessel or persons who may have otherwise caused or may be legally responsible for releases or threats of releases of oil or hazardous material, to conduct or reimburse the authority for the costs of response actions. In conducting any response action pursuant to the requirements of said chapter 21E and the regulations promulgated thereto, the authority shall not be exempt from any compliance or permit fees.

Section 6. In the event that a response action or portion of a response action conducted by the authority includes a restriction on future use of the property pursuant to section 6 of chapter 21E and the regulations promulgated thereto, the authority shall have no liability or responsibility for any future or subsequent violation of such restriction or for any necessary and appropriate response action on account of use of the property by a future owner or operator contrary to the requirements of such restriction.

Section 7. Except as expressly provided by this section, the authority shall not be deemed an "owner" or "operator" under the provisions of clauses (2) and (5) of paragraph (a) of section 5 of chapter 21E of the General Laws and shall be excluded from the definition of "owner" or "operator" with respect to releases and threats of releases that first begin to occur before the authority acquires ownership or possession of a property; provided, however, that upon acquiring ownership or possession of a property, said authority shall:

(1) provide notice to the department of environmental protection, immediately upon obtaining knowledge of a release or threat of release of oil or hazardous material for which notification is required pursuant to, and in compliance with, section 7 of said chapter 21E or regulations promulgated pursuant thereto;

(2) provide reasonable access to the property to employees, agents and contractors of said department to conduct response actions, if necessary, and to other persons intending to conduct necessary response actions;

(3) take or arrange for any and all response actions necessary and appropriate regarding releases or threats of releases under said chapter 21E and any regulations promulgated pursuant thereto.

In the event that the department incurs response action costs in connection with any site acquired by the authority, the authority shall reimburse the department for such reasonable response actions costs.

Section 8. There is hereby established the Pittsfield Economic Development Board, hereinafter called the board. The authority shall be under the management and control of said board.

Section 9. The board may enter upon any land for the purposes of making surveys, environmental site assessments, test pits or borings and, for the carrying out of said purposes, may, by purchase or otherwise, temporarily occupy any lands or take property by eminent domain under chapter 79 of the General Laws.

Section 10. The authority, by vote of the board, may issue, from time to time, general obligation serial bonds or notes to pay for the costs of capital outlays in connection with assessment, containment and removal activities at properties acquired by the authority and in connection with the construction and operation of industrial and commercial facilities and such other works as may be required, including land damages and costs of demolition of existing structures on lands that may be required.

Such bonds shall be issued in such amounts as the authority, acting by and through the board, may determine and the authority may refund any such bonds and notes. Such serial bonds and notes may be callable with or without premium and shall contain such terms and conditions, bear such rates of issue, be sold in such a manner, at private or public sale, and mature in such times and in such amounts as the board shall determine, provided, however, that each issue of such bonds and notes shall be payable in annual installments, the first of which shall be payable not later than two years after its date and the last of which shall be payable not more than 30 years from such date.

If the board votes to issue serial bonds or notes, said board may authorize the issuance in the name of the authority of general obligation temporary notes for a period of not more than two years in anticipation of the money to be received from the sale of such serial bonds or notes. The time within which such temporary notes are issued shall not be extended by reason of the making of such temporary loans beyond the time fixed in the order authorizing such temporary bonds or notes.

For the purpose of paying the expenses of operations including, without limitation, any principal or interest due or about to become due on any serial bond or note issued by the authority in which funds are not available, the board in the name of the authority may issue, from time to time, general obligation temporary notes of the authority in anticipation of any revenues, gifts, grants or receipts from any public or private source.

General obligation temporary notes in anticipation of any revenues, gifts, grants or receipts shall be payable not more than one year from their date and shall not exceed in principal amount the amount of the reasonably known and measurable revenues, gifts, grants or receipts in anticipation of which they are issued.

General obligation temporary notes issued under this section for a shorter period than

the maximum permitted may be renewed by the issuance of other general obligation temporary notes maturing within the required period; provided, however, that the period from the date of issue of the original temporary note to the date of maturity of the renewal note shall not exceed the maximum period for which the original note may have been issued. Such temporary notes or renewal notes may be sold at discount or with interest payable at or before maturity.

Notes or serial bonds authorized by this section shall be signed by the treasurer of the board and countersigned by the chairman of the board and serial bonds and notes shall have the authority's seal affixed. Section 16B of chapter 44 of the General Laws shall be applicable to such serial bonds and notes.

Section 11. The board shall annually determine the amount required for the payment of principal and interest on such serial bonds and notes issued or to be renewed by the authority which shall be due during the ensuing calendar year and shall also determine such other amounts as may be necessary to maintain and operate the authority during such year, including capital outlay items the cost of which is not to be funded and for all other matters for which the authority is required to raise money, and, after determining such payments and amounts, shall promptly prepare a report which shall be provided to the mayor of the city of Pittsfield.

Section 12. To meet the costs of construction, maintenance and operation of the facilities authorized by this act, the authority may file an application for, or accept and use, any federal or state funds or grants or any federal or state assistance or both provided therefor under any federal or state law or funds from any other sources.

The authority may also apply for and receive contributions from public or private funding sources for the establishment of a Capitalized Mitigation Fund to be used for the purpose of financing project costs and administered as a revolving loan fund to the city of Pittsfield. Such contributions shall be reported in a yearly report of private contributions to be prepared by the board which shall, not later than February 1 of each year, submit a copy to the house and senate committees on ways and means, the state auditor and the chief executive and city council members of the city of Pittsfield. The authority may expend funds from said Capitalized Mitigation Fund on any project only after a majority vote of the board. The city of Pittsfield, receiving funding from said fund, shall prepare a complete financial report detailing cost analysis and environmental impact.

Nothing in this section shall be construed to limit the ability of the authority to accept gifts, grants or contributions from any public, private or charitable source.

Section 13. No lands, rights of ways or other easements, property, structures or rights acquired by the authority, as herein provided and located in the city of Pittsfield shall be assessed or taxed by the city of Pittsfield so long as such property is owned by the authority, response actions are on-going and the property and improvements thereon are not in beneficial reuse by a third party as so determined in the judgement of the board. Following the completion of the response actions or transfer or upon beneficial reuse of the property, it shall be assessed or taxed by the city of Pittsfield.

Section 14. The board shall consist of seven members appointed by the mayor of the city of Pittsfield. Official action shall require the affirmative vote of at least said majority of the board.

In appointing such members, the mayor shall choose at least one member who is experienced with or knowledgeable about the financing or issuance of bonds, such member to be appointed for a term of two years; one member who is experienced with or knowledgeable about environmental matters, including contamination of land, such member to be appointed for a term of two years; one member who is experienced with or knowledgeable about economic development and planning, such member to be appointed for a term of three years; one member who lives in or will represent the interest of the neighborhoods which will be most directly affected by the activities of the authority, such member to be appointed for a term of one year and three members who shall be appointed for a term of one year each. The mayor may serve as a member of the board.

At the expiration of the term of any member or upon the resignation or disqualification of any member, the mayor shall appoint a new member for an equivalent term as the member whose seat the new member is replacing. Each member whose term has expired shall serve until the qualification of a successor. A board member may be reappointed.

Section 15. The board shall appoint and determine the compensation of an authority director who shall be the chief executive officer of the authority and shall administer the affairs and direct the work of the authority as approved by the board. Such director may, in the discretion of the board, also hold elective office, notwithstanding any provisions of chapter 268A or any other of the General Laws to the contrary. The board shall set forth the powers and duties of the director in its by-laws.

The director may, upon approval of the board or as otherwise provided in the authority's by-laws, enter into agreements for professional construction services to be provided to the authority by private contractors. The director shall be familiar with economic development in Berkshire county and shall possess such other qualifications as are determined by the board.

Section 16. The authority shall have a seal consisting of a circular die bearing the words "Commonwealth of Massachusetts, Pittsfield Economic Development Authority", which seal may be used whenever deemed advisable by the board on papers and documents issued or executed by the board or by any officer or employee designated by the board.

Section 17. The board shall prepare and adopt by-laws describing and stipulating its organization and operations. The board members shall annually, in the month of April, select a chairman, vice-chairman, and secretary, from among the membership who shall act as an executive committee. Members of the board may receive compensation from the authority which shall not exceed \$500 per year for a board member or \$1,000 per year for the chairman, vice-chairman or secretary. Board members may be reimbursed for actual expenses incurred in performance of their duties on approval of the board.

The board shall appoint and may, at its pleasure, remove a treasurer and a clerk who shall not be members of the board. Both offices, if the board deems advisable, may be held by the same person. The treasurer shall give the board a bond payable to the authority with a surety company authorized to transact business within the commonwealth and satisfactory to the board, such surety in such sums as the board may prescribe, and conditioned on the faithful performance of the duties of treasurer. The duties of the treasurer and the clerk shall be those usually pertaining to such offices and, in addition, such as may be from time to time prescribed by the board. The board may retain legal counsel for any and all appropriate purposes.

The director, with the approval of the board, shall from time to time appoint or employ such other experts, agents, officers, clerks and other employees as deemed necessary and shall determine their duties. The salaries or compensation of all persons appointed or employed under authority of this section shall be determined by the board and, together with other expenses, shall be paid by the authority and shall be considered a part of the expense of maintenance of the authority. The board shall establish an office within the city of Pittsfield in which its business may be conducted and in which plans, documents, records and other papers relating to its business, land and other works and properties shall be kept.

The authority shall at all times keep full and accurate accounts of its receipts, expenditures, disbursements, assets and liabilities which shall be open at all times for inspection by the city of Pittsfield or by any officer or duly appointed agent of the commonwealth.

The board shall make a report each year of its activities for the preceding year and shall, prior to February 1, submit a copy of such report to the state auditor and to the city of Pittsfield. A copy of such report shall also be submitted to the department of environmental protection.

Section 18. Initial organization of the board established under the provisions of section 8 shall take place within 180 days after the affirmative vote of the city council of Pittsfield for the formation of the authority. If the board does not organize itself and form the authority within 180 days, the action of the city council shall be null and void.

Section 19. The authority shall provide for early direct community involvement in each significant phase of response activities taken under this authority. This shall include providing the community with access to information necessary to develop comments on decisions regarding site characterization, risks posed by the site and selection of assessment, containment, and removal actions.

Process for involvement: (1) site assessment - whenever practicable, during the site assessment, the authority shall solicit and evaluate the concerns and interests of the community likely affected by the site by whatever means deemed appropriate by the authority; (2) site cleanup - after assessment and feasibility study and a method of cleanup has been determined, the authority shall solicit the views and preferences of the community likely affected by this cleanup including the disposition of the oil, hazardous material, pollutants, or contaminants at the site.

Section 20. The department of environmental protection shall promulgate rules and regulations, after notice and hearing in accordance with chapter 30A of the General Laws, to set up and implement a pilot project in the city of Pittsfield for the purpose of reuse and redevelopment to promote economic growth at said site. The department shall involve in the process all interested parties including, but not limited to, the United States Environmental Protection Agency, the attorney general of the commonwealth, the elected officials in the city of Pittsfield and the Massachusetts office of business development or its successor. The department shall prepare a preliminary plan not later than 120 days after the effective date of this act and shall publish notice thereof in the state environmental monitor. Such pilot project shall require significant economic activity for the city of Pittsfield providing net new jobs as defined by chapter 19 of the acts of 1993. Such pilot project shall include: (1) allowing the long-term use of one or more temporary solutions, as such term is defined in subsection (f) of section 3A of chapter 21E of the General Laws, to satisfy the remediation requirements of said section 3A; (2) establishing appropriate reporting and monitoring requirements for the construction and maintenance of such temporary solutions; (3) defining the department's responsibilities for reviewing and approving such temporary solutions and reporting and monitoring thereof; (4) providing for an appropriate and efficient process to allow public participation with respect to the department's approval and review of such temporary solutions as set forth in clause (3); (5) defining the limited circumstances in which, upon petition of the department or another person or party, a permanent solution may be required in lieu of the continuation of such temporary solutions; and (6) providing appropriate incentives, within the limits of state laws or regulations, to induce any participant in such a pilot project to complete remediation expeditiously.

Section 21. The authority may, in its reasonable discretion, enter into a binding agreement with federal and state natural resource trustees, representatives and other parties, including, without limitation, the national oceanic and atmospheric administration, the United States department of the interior, the Massachusetts executive office of environmental affairs and the Connecticut department of environmental protection, in which agreement said authority may agree to pay a portion of its net revenues to such trustees, representatives and other parties, as compensation for natural resource damages resulting from the release of polychlorinated biphenyls into the Housatonic river and its environs.

SECTION 3. Section 6 of chapter 293 of the acts of 1998 is hereby amended by adding the following two sentences:- Any amount not paid by said date shall bear interest from said date at the rate per annum provided in section 57 of chapter 59 of the General Laws. The collector shall h the collection of sums assessed hereunder all remedies provided by chapter 60 of the General Laws for the collection of real estate taxes.

Approved January 15, 1999.

Chapter 487. AN ACT RELATIVE TO MAKING CERTAIN CHANGES IN THE LAWS OF THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make forthwith certain changes in the laws of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The first sentence of section 203 of chapter 379 of the acts of 1992 is hereby amended by inserting after the word "occur", in line 11, the following words:- ; provided, however, that the divisions of the district court department in the counties of Middlesex and Norfolk shall continue to accept such cases and petitions for filing and issue process therein, until such time as a division of the juvenile court department having territorial jurisdiction corresponding to such divisions of the district court department is established, or January 1, 2000, whichever shall first occur.

SECTION 2. Chapter 208 of the acts of 1997 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. The jurisdiction of the district court juvenile sessions effective on July 26, 1996 shall continue in effect, except as amended by chapter 200 of the acts of 1996, until such time as a division of the juvenile court department having territorial jurisdiction corresponding to that of such division of the district court department is established or January 1, 1999, whichever shall first occur, pursuant to section 203 of chapter 379 of the acts of 1992; provided, however, that the divisions of the district court department in the counties of Middlesex and Norfolk shall continue to accept such cases and petitions for filing and issue process therein, until such time as a division of the juvenile court department having territorial jurisdiction corresponding to such divisions of the district court department is established, or January 1, 2000, whichever shall first occur.

SECTION 3. The second paragraph of section 9 of chapter 118E</ General Laws, as amended by section 26 of chapter 88 of the acts of 1997, is hereby further amended by adding the following sentence:- Benefits shall be made available to qualifying individuals as described in section 1933 of the Social Security Act (42 U.S.C. Sec.1396u-3).

SECTION 4. The division of medical assistance shall provide the benefits described in section 3 of this act beginning October 1, 1998, to any eligible persons who seeks such benefits on or before June 30, 1999; and, for eligible persons who apply for such benefits after June 30, 1999, said division shall provide such benefits up to three months prior to the month of application; provided, however, that federal funding is available to reimburse said division for its expenditures for such benefits.

SECTION 5. This act shall take effect as of December 31, 1998.

Approved January 15, 1999.

Chapter 1. RESOLVE IN FAVOR OF THE WIDOW OF THE LATE WILLIAM G. REINSTEIN.

RESOLVED, That for the purpose of promoting the public good, and after an appropriation has been made therefor; there shall be paid out of the state treasury to the widow of the late William G. Reinstein, who died while a member of the present house of representatives, the salary to which he would have been entitled had he lived and served until the end of the term for which he was elected. The additional benefits provided for by this resolve shall be included as regular compensation for William G. Reinstein for the purpose of computing his retirement benefits pursuant to chapter 32 of the General Laws.

Approved August 5, 1998.

Chapter 2. RESOLVE IN FAVOR OF THE WIDOW OF THE LATE ANTHONY M. SCIBELLI.

RESOLVED, That, for the purpose of promoting the public good, and after an appropriation has been made therefor, there shall be paid out of the state treasury to the widow of the late Anthony M. Scibelli, who died while a member of the present house of representatives, the salary to which he would have been entitled had he lived and served until the end of the term for which he was elected. The additional benefits provided for by this resolve shall be included as regular compensation for Anthony M. Scibelli for the purpose of computing his retirement benefits pursuant to chapter 32 of the General Laws.

Approved November 17, 1998

SUMMARY OF THE ACTS AND RESOLVES APPROVED, APPROVAL WITHHELD, ACTS VETOED BY THE GOVERNOR, PASSED OVER HIS VETO, ACTS DECLARED EMERGENCY LAWS BY THE GOVERNOR UNDER THE AUTHORITY OF THE CONSTITUTION, LAWS ENACTED BY THE PEOPLE NOVEMBER 3, 1998 STATE ELECTION AND THE CONSTITUTIONAL AMENDMENT APPROVED BY THE PEOPLE AT THE NOVEMBER 3, 1998 STATE ELECTION.

During the second session of the General Court held in 1998, 487 Acts and two Resolves were enacted of which 480 Acts and all Resolves received the Governor's approval.

Chapter 108 was not approved by the Governor within the ten days prescribed by the Constitution. The chapter was not returned to either branch during the ten days with the Governor's reasons for disapproval in writing and the General Court had not prorogued during that time, this Act has the force of law and has been so certified.

Four Acts were returned by the Governor to the branch in which each Act had originated, with his objections in writing thereto. Chapter 9 was passed by the Senate on January 8, 1998 and by the House on January 14, 1998. Chapter 30 was passed by the Senate on January 29, 1998 and the House on February 11, 1998. Chapter 158 was passed by the House on February 6, 1998 and the Senate on June 25, 1998. Chapter 258 was passed by the Senate on May 14, 1998 and the House on July 31, 1998. The Governor's objections notwithstanding these chapters have the force of law and have been so certified.

This summary does not include those line item vetoes by the Governor on Appropriations Acts nor any subsequent legislative action on those vetoes.

Seven Acts were declared to be emergency laws by the Governor under Article XLVIII of the Amendments to the Constitution. These are Chapters 115, 145, 286, 306, 316, 362 and 390.

Chapter 395, The Massachusetts Clean Elections Law, and Chapter 396, To Encourage Savings Through Tax Fairness, were adopted by the people at the November 3, 1998 state election under Article XVIII of the Amendments to the Constitution, the Initiative, Part V, Section 1 as amended; according to the determination of the Governor and Council dated November 25, 1998.

Article CXVIII, a legislative amendment to the Constitution entitled Proposal for a Legislative Amendment to the Constitution Relative to the Compensation of Members of the General Court, was submitted to the people at the November 3, 1998 state election. The proposed amendment was approved under Article XVIII of the Amendments to the Constitution, the Referendum, Part IV, Section 5, and was thereby approved, by a majority of voters thereon, according to a determination of the Governor and Council dated November 25, 1998.

The 1998 session of the General Court was dissolved at midnight on Tuesday, January 5, 1999 the session having lasted 364 days.

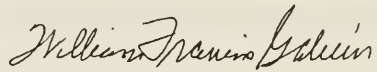


William Francis Galvin
Secretary of the Commonwealth

OFFICE OF THE SECRETARY, BOSTON, MASSACHUSETTS August 23, 1999

I hereby certify that the Acts and Resolves contained in this volume are true copies of the originals on file with this department.

I further certify that the Index and the Table of Changes contained in this volume have been prepared under the direction of the Committee on Rules of the two branches of the General Court in accordance with the provisions of M.G.L. c. 3, § 52.

A handwritten signature in cursive script, reading "William Francis Galvin".

William Francis Galvin
Secretary of the Commonwealth

TABLE OF CHANGES

SHOWING

TO WHAT EXTENT THE GENERAL LAWS OF THE COMMONWEALTH, AS
APPEARING IN THE 1996 OFFICIAL EDITION, HAVE BEEN AFFECTED BY THE
LEGISLATION PASSED BY THE GENERAL COURT SINCE JANUARY 1, 1997.

CHAPTER 1 - Jurisdiction of the Commonwealth and of the United States.

CHAPTER 2 - Arms, Great Seal and Other Emblems of the Commonwealth.

§ 42 added, 1997, 42.

§ 43 added, 1997, 162.

§ 44 added, 1998, 339.

CHAPTER 3 - The General Court.

§ 62 amended, 1998, 161 §§ 1, 2, 3.

§ 66 added, 1998, 138; paragraph (b) of subsection (6), first sentence revised, 1998. 463 § 1.

CHAPTER 4 - Statutes.

§ 6, clause Fourth revised, 1998, 170.

CHAPTER 5 - Printing and Distribution of Laws and Public Documents.

§ 1 amended, 1998, 161 §§ 4, 5.

**CHAPTER 6 - The Governor, Lieutenant Governor and Council, Certain Officers
under the Governor and Council, and State Library.**

§15XXX added, 1997, 79.

§15YYY added, 1998, 3.

§ 15ZZZ added, 1998, 91.

§ 15AAAA added, 1998, 118.

§ 15BBBB added, 1998, 350.

§ 15BBBB added, 1998, 401.

§ 15CCCC added, 1998, 359.

§ 15DDDD added, 1998, 463 § 2.

§ 40 amended, 1998, 161 § 6.

§ 75 amended, 1998, 161 §§ 7, 8.

§ 76 amended, 1998, 161 § 9.

CHAPTER 6 - continued

- § 78A amended, 1998, 161 § 10; **section amended**, 1998, 463 § 3.
- § 81 amended, 1998, 161 §§ 11, 12.
- § 91 amended, 1997, 164 § 2; **section amended**, 1998, 161 §§ 13, 14, 15.
- § 105, first sentence revised, 1998, 161 § 16.
- § 108 amended, 1998, 161 §§ 17, 18.
- § 115A amended, 1998, 295 §§ 1, 2.
- § 121 amended, 1998, 463 § 4.
- § 127 amended, 1998, 161 § 19.
- § 129 amended, 1998, 161 § 20.
- § 166 amended, 1998, 161 § 21.
- § 166B amended, 1998, 161 § 22.
- § 168 amended, 1998, 161 § 23; **section amended**, 1998, 463 § 5.
- § 168B amended, 1998, 180 § 1; **section amended**, 1998, 358 § 1. (See 1998, 358 § 12.)
- § 172C amended, 1998, 336 § 1; paragraph added, 1998, 336 § 2.
- § 172D added, 1998, 64 § 1.
- § 172E added, 1998, 336 § 3.
- § 178K amended, 1998, 463 § 6.
- § 178P added, 1997, 106 § 3.
- § 179, first paragraph revised, 1998, 194 § 8.
- § 181 amended, 1998, 161 §§ 24, 25.
- § 183A amended, 1998, 161 § 26.
- § 189 amended, 1998, 161 § 27.
- § 190 amended, 1998, 161 §§ 28, 29.
- § 193 amended, 1998, 161 § 30.
- § 197 amended, 1998, 161 § 31.
- § 202 amended, 1998, 161 § 32.
- § 203, second paragraph, clause 10 added, 1997, 43 § 9; **section amended**, 1998, 161 § 33.
(See 1997, 43 § 311.)
- § 204 amended, 1998, 161 § 34.
- § 205 stricken out, 1997, 19 § 1.
- § 206 stricken out, 1997, 19 § 1.
- § 207 stricken out, 1997, 19 § 1.
- § 208 stricken out, 1997, 19 § 1.
- § 209 added, 1997, 19 § 1.
- § 210 added, 1997, 19 § 1.
- § 211 added, 1997, 19 § 1.
- § 212 added, 1997, 19 § 1.
- § 213 added, 1997, 19 § 1.

CHAPTER 6A - Executive Offices.

- § 3 amended, 1998, 161 § 36.
- § 8A amended, 1998, 161 §§ 37, 38, 39.
- § 16 amended, 1998, 161 §§ 40, 41.
- § 16C added, 1998, 194 § 9.
- § 18B amended, 1998, 161 §§ 42, 43.
- § 18D amended, 1997, 164 § 3.
- § 18E amended, 1997, 164 § 4.
- § 18F amended, 1997, 164 §§ 5, 6.

CHAPTER 6B - Acute Hospital Finance.

CHAPTER 7 - Executive Office for Administration and Finance. (Former title, Commission on Administration and Finance.)

- § 1 amended, 1998, 194 § 10.
- § 4A, paragraph (b), first sentence revised, 1997, 19 § 3; last sentence revised, 1997, 43 § 11;
section amended, 1998, 194 § 12; paragraph (a), last sentence stricken out, 1998, 194
§ 13. (See 1997, 43 § 311.)
- § 4B amended, 1998, 161 § 44.
- § 4I amended, 1998, 161 § 45.
- § 4J amended, 1998, 161 § 46.
- § 6F amended, 1998, 161 § 47.
- § 22 amended, 1998, 161 §§ 48, 49; clause (2) revised, 1998, 194 § 14.
- § 23 amended, 1997, 19 § 4.
- § 30 amended, 1998, 161 § 50.
- § 38A ½, paragraph (b), definitions of “Commissioner” and “Division” revised, 1998, 194
§ 15; **section amended**, 1998, 463 § 7.
- § 38M amended, 1998, 194 § 16.
- § 39A amended, 1997, 11 § 16; **section amended**, 1998, 194 § 17; first paragraph, paragraph
(e) revised, 1998, 463 § 4.
- § 39B amended, 1998, 194 § 18; first paragraph, clause (d) added, 1998, 194 § 19; clause (d)
added by 1998, 194 § 19 stricken out and clause (e) inserted, 1998, 463 § 9.
- § 39C amended, 1998, 194 § 20.
- § 40A amended, 1998, 161 § 51; **section amended**, 1998, 194 § 21.
- § 40C amended, 1998, 194 § 22.
- § 40D amended, 1998, 194 § 23.
- § 40E amended, 1998, 194 § 24.
- § 40F amended, 1998, 194 § 25.
- § 40G amended, 1998, 161 § 52; **section amended**, 1998, 194 § 26.
- § 40H amended, 1998, 194 § 27.
- § 40I amended, 1998, 194 § 28.

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- § 40J amended, 1998, 194 § 29.
- § 40K amended, 1998, 194 § 30.
- § 40L, second sentence revised, 1998, 161 § 53; **section amended**, 1998, 194 § 31.
- § 40M amended, 1998, 194 § 32.
- § 40N amended, 1998, 194 § 33.
- § 41A amended, 1998, 194 § 34.
- § 42B amended, 1998, 194 §§ 35, 36.
- § 41C amended, 1998, 194 § 37.
- § 42H amended, 1998, 194 § 38.
- § 42J amended, 1998, 194 § 39.
- § 43A amended, 1998, 194 § 40.
- § 43C amended, 1998, 161 § 54.
- § 43F amended, 1998, 194 § 41.
- § 43F½ amended, 1998, 194 § 42.
- § 49, subsection (a), sentence inserted after sixth sentence, 1997, 88 § 3. (See 1997, 88 § 114.)
- § 50, introductory paragraph revised, 1997, 19 § 5; first paragraph, clauses (k) and (l) stricken out, 1997, 43 § 12. (See 1997, 43 § 311.)
- § 51, third paragraph stricken out, 1998, 194 § 43.
- § 53, definition of "Business day" inserted, 1998, 158 § 1.
- § 54 amended, 1998, 161 § 55.
- § 55, subsection (a) amended, 1998, 158 § 2; sentence added, 1998, 158 § 3.

CHAPTER 7A - Office of the Comptroller.

- § 12 revised, 1997, 88 § 4; subsection (a), fourth paragraph amended, 1998, 175 § 1. (See 1997, 88 § 114; 1998, 175 § 23.)
- § 13 amended, 1998, 194 § 44.
- § 16 added, 1998, 194 § 45; introductory paragraph revised, 1998, 463 § 10; paragraph (a) revised, 1998, 463 § 11.

CHAPTER 8 - State Superintendent of Buildings, and State House.

- § 1 amended, 1998, 194 §§ 48, 49
- § 4 amended, 1998, 194 § 50.
- § 10 amended, 1998, 194 § 51.
- § 16A amended, 1998, 194 § 52.
- § 17 amended, 1998, 194 § 53.
- § 26 amended, 1998, 161 § 56.
- § 30 added, 1997, 226 § 1. (See 1997, 226 § 16.)

CHAPTER 9 - Department of the State Secretary.

CHAPTER 10 - Department of the State Treasurer.

- § 23 amended, 1998, 463 § 12.
- § 24 amended, 1998, 305 §§ 1, 2.
- § 35G, second paragraph revised, 1998, 194 § 54.
- § 35R, inserted, 1997, 88 § 5. (See 1997, 88 § 114.)
- § 42 revised, 1998, 395 § 3.
- § 43 stricken out, 1998, 395 § 3.
- § 44 stricken out, 1998, 395 § 3.
- § 45 stricken out, 1998, 395 § 3.
- § 60 stricken out, 1997, 210 § 1.
- § 61 revised, 1997, 210 § 2.
- § 62 added, 1997, 164 § 7.

CHAPTER 11 - Department of the State Auditor.

- § 12 amended, 1998, 161 § 57.
- § 13 amended, 1998, 463 § 13.

CHAPTER 12 - Department of the Attorney General, and the District Attorneys.

- § 3E amended, 1998, 161 § 58.
- § 11E amended, 1997, 164 § 8.

CHAPTER 12A - Office of the Inspector General.

- § 5 amended, 1997, 43 § 13. (See 1997, 43 § 311.)

CHAPTER 12B - State Gambling and Advisory Commission.

**CHAPTER 13 - Division and Boards of Registration.
(Former title-Department of Civil Service and Registration.)
(Title revised, 1998, 161 § 59)**

- § 10A amended, 1998, 161 § 60.
- § 11C amended, 1998, 161 § 61.
- § 22, third sentence stricken out and two sentences inserted, 1997, 215 § 1; **section amended**, 1997, 215 § 2.
- § 36, caption preceding section revised, 1998, 352 § 1; first paragraph revised, 1998, 350 § 2.
- § 43, first sentence revised, 1998, 388.
- § 79 amended, 1998, 161 § 62.
- § 90 amended, 1998, 161 § 63.

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§ 93 added, 1998, 321 § 1.

§ 94 added, 1998, 321 § 1.

§ 95 added, 1998, 321 § 1.

CHAPTER 14 - Department of Revenue.

§ 8 added, 1998, 485 § 1. (See 1998, 485 § 23.)

CHAPTER 15 - Department of Education.

§ 18 amended, 1998, 463 § 14.

§ 18A amended, 1997, 66 § 2.

§ 54 amended, 1998, 161 § 64; **section amended**, 1998, 194 § 57.

CHAPTER 15A - Public Education.

§ 2 amended, 1997, 66 §§ 3,4; **section amended**, 1998, 161 § 65.

§ 3A amended, 1998, 161 § 66.

§ 4, first paragraph, first three sentences stricken out and one sentence inserted, 1997, 66 § 5;
seventh paragraph revised, 1997, 66 § 6; **section amended**, 1998, 161 § 67.

§ 5 amended, 1997, 78 § 1.

§ 9 amended, 1997, 66 § 7; **section amended**, 1998, 161 § 68.

§ 9B amended, 1997, 66 § 8.

§ 15, first paragraph, last sentence stricken out, 1998, 161 § 69.

§ 18 amended, 1998, 161 § 70.

§ 19A, third paragraph, clause (1) revised, 1998, 194 § 58.

§ 21 amended, 1997, 66 § 9.

§ 34A added, 1998, 194 § 59.

§ 39 amended, 1998, 161 § 71.

§ 40 amended, 1997, 66 § 10; subsection (2), paragraph (a) revised, 1998, 478 § 1;
subsection (3), paragraph (e) added, 1998, 478 § 2; **section amended**, 1998, 463 § 15.

§ 62D amended, 1997, 66 § 11.

**CHAPTER 15B - The New England Educational Loan Marketing Corporation Act.
(Chapter repealed, 1982, 356 § 2.)**

CHAPTER 15C - Massachusetts College Student Loan Authority.

§ 4 amended, 1998, 161 § 72.

**CHAPTER 16 - Department of Highways.
(Formerly, Department of Public Works.)**

CHAPTER 17 - Department of Public Health.

§ 2 amended, 1998, 161 § 73.
§ 4 amended, 1998, 161 § 74.
§ 7A amended, 1998, 161 § 75.

CHAPTER 18 - Department of Transitional Assistance.
(Title revised, 1995, 5 § 7. Former title, Department of Public Welfare.) (See 1995, 5 § 7.)

§ 3 amended, 1998, 161 § 76.
§ 28 amended, 1998, 161 § 77.

CHAPTER 18A - Department of Youth Services.

§ 1 amended, 1998, 161 § 78.
§ 3 amended, 1998, 161 § 79.
§ 9 amended, 1998, 161 § 80.

CHAPTER 18B - Department of Social Services.

§ 3A amended, 1998, 161 § 81.
§ 6 amended, 1998, 161 § 82.

CHAPTER 19 - Department of Mental Health.

§ 2 amended, 1998, 161 § 83.
§ 3 amended, 1998, 161 § 84.
§ 8A added, 1997, 43 § 14. (See 1997, 43 § 311.)
§ 11 amended, 1998, 161 § 85.
§ 11A added, 1998, 208.
§ 21 amended, 1998, 161 § 86.

CHAPTER 19A - Department of Elder Affairs.

§ 4B amended, 1998, 161 § 87.
§ 11 amended, 1998, 161 § 88.
§ 13 amended, 1998, 463 § 16.
§ 37 stricken out, 1997, 19 § 6.
§ 38 added, 1997, 19 § 6.

CHAPTER 19B - Department of Mental Retardation.

§ 2 amended, 1998, 161 § 89.

§ 3 amended, 1998, 161 § 90.

§ 18 amended, 1998, 161 § 91.

CHAPTER 19C - Disabled Persons Protection Commission.

§ 1 amended, 1998, 161 § 92.

§ 3, first paragraph amended, 1997, 43 § 16; clause (I) added, 1997, 43 § 17; **section amended**, 1998, 161 § 93. (See 1997, 43 § 311.)

§ 4, clause (b), last sentence stricken out and two sentences inserted, 1997, 43 § 18; paragraph added, 1997, 43 § 19; **section amended**, 1998, 161 § 94. (See 1997, 43 § 311.)

§ 5, paragraph (5) added, 1997, 43 § 20; **section amended**, 1998, 161 § 95. (See 1997, 43 § 311.)

§ 6 amended, 1998, 161 § 96

§ 7, paragraph (d) added, 1997, 43 § 20. (See 1997, 43 § 311.)

§ 11 amended, 1998, 161 § 97.

§ 12 amended, 1998, 161 § 98.

CHAPTER 19D - Assisted Living.

(New Chapter inserted, 1994, 354 § 3.)

§ 16 amended, 1998, 161 § 99.

§ 17 amended, 1998, 161 § 100.

CHAPTER 20 - Department of Food and Agriculture.

CHAPTER 21 - Department of Environmental Management.

§ 7, second sentence revised, 1997, 19 § 7. (See 1997, 19 § 127.)

§ 17A amended, 1998, 194 §§ 60, 61.

§ 17C revised, 1998, 268.

§ 27A, subsection (a), second and third sentences revised, 1998, 78 § 1.

§ 37 amended, 1998, 463 § 17.

CHAPTER 21A - Executive Office of Environmental Affairs.

§ 4B added, 1998, 194 § 63.

§ 8A amended, 1998, 161 § 101; seventh paragraph, sentence added, 1998, 194 § 62. § 13 added, 1998, 22.

§ 13A, second paragraph revised, 1998, 463 § 18.

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§ 16 amended, 1998, 206 §§ 1, 2, 3, 4.

§ 17 amended, 1998, 161 § 102.

§ 18A amended, 1997, 164 §§ 9, 10, 11, 12, 13.

§ 19, second sentence stricken out and two sentences inserted, 1998, 206 § 5.

§ 19A amended, 1998, 206 § 6.

CHAPTER 21B - Mining Regulation and Reclamation.

CHAPTER 21C - Massachusetts Hazardous Waste Management Act.

§ 7 amended, 1997, 164 §§ 14, 15.

§ 8 amended, 1997, 164 § 16.

CHAPTER 21D - Massachusetts Hazardous Waste Facility Siting Act.

§ 11 amended, 1998, 161 § 103.

CHAPTER 21E - Massachusetts Oil and Hazardous Material Release Prevention and Response Act.

§ 2, definition of “Activity and use limitation” inserted, 1998, 206 § 7; definitions of “Community Development Corporation” and “Condition of substantial release” inserted, 1998 206 § 8; definition of “Economic development and industrial corporation” inserted, 1998, 206 § 8A; definitions of “Economically distressed area”, “Eligible person” and “Eligible tenant” inserted, 1998, 206 § 9; **section amended**, 1998, 206 §§ 10, 11; sentence revised, 1998, 206 § 12; definition of “Owner” or “Operator” amended, 1998 206 § 13; **section amended**, 1998, 206 § 14; definition of “Owner” or “Operator” amended, 1998, 206 § 15; definition of “Redevelopment authority” or “redevelopment agency” inserted, 1998, 206 § 16; definition of “Remedy operation status” inserted, 1998, 206 § 17; definition of “Standard of care” inserted, 1998, 206 § 18; **section amended**, 1998, 463 § 19.

§ 3A, paragraph (j), clause (2) revised, 1998, 206 § 19; clause (1), paragraph (p), subclause (ii) revised, 1998, 206 § 20.

§ 3B amended, 1998, 206 § 21; second paragraph revised, 1998, 206 § 22.

§ 5 amended, 1997, 164 § 17; **section amended**, 1998, 206 § 23; paragraph added, 1998, 206 § 24.

§ 5C added, 1998, 206 § 25.

§ 5D added, 1998, 206 § 25.

§ 6, paragraph added, 1998, 206 § 26.

§ 7, first paragraph, first sentence revised, 1998, 206 § 27.

§ 8, second paragraph revised, 1998, 1998, 206 § 28.

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§ 13 amended, 1998, 206 § 29.

§ 19 added, 1998, 206 § 30; subsection (b), clause (2) revised, 1998, 463 § 20; subsection (c), introductory paragraph, second sentence revised, 1998, 463 § 21.

CHAPTER 21F - Coastal Facilities Improvement.

CHAPTER 21G - Massachusetts Water Management Act.

§ 19 amended, 1997, 164 §§ 18, 19, 20.

CHAPTER 21H - Solid Waste Facilities.

(New chapter inserted, 1987, 584 § 3.)

CHAPTER 21I - Massachusetts Toxics Use Reduction Act.

(New chapter inserted, 1989, 265 § 3.)

§ 4, first paragraph, second sentence revised, 1998, 161 § 104.

§ 6 amended, 1998, 161 §§ 105, 106, 107.

CHAPTER 21J - Underground Storage Tank Petroleum Product Cleanup Fund.

(New chapter inserted, 1990, 524 § 1.)

§ 1 amended, 1997, 43 § 22. (See 1997, 43 § 311.)

§ 2 amended, 1997, 43 § 24. (See 1997, 43 § 311.)

§ 4, paragraph (b), clause (1), subclause (A), subparagraphs (I), (ii) and (iii) revised, 1997, 43 § 28, clause (2) stricken out, 1997, 43 § 29; paragraph (b) amended, 1997, 43 § 30. (See 1997, 43 § 311.)

§ 8, first paragraph, fourth to sixth sentences, inclusive, stricken out and two sentences inserted, 1997, 43 § 33. (See 1997, 43 § 311.)

§ 10 amended, 1997, 43 § 35. (See 1997, 43 § 311.)

CHAPTER 21K - Mitigation of Hazardous Material.

(New Chapter inserted, 1998, 194 § 64.)

CHAPTER 22 - Department of Public Safety.

§ 15D amended, 1998, 64 §§ 2, 3; section amended, 1998, 161 § 108.

CHAPTER 22A - Central Register for Missing Children.

§ 1, definition of "Person" inserted, 1997, 106 § 4.

§ 5 amended. 1997, 106 § 5

§ 6 amended. 1997, 106 § 6

CHAPTER 22B - Capitol Police.
(Chapter repealed, 1991, 412 § 21.) (See 1991, 412 § 139.)

CHAPTER 22C - The Department of State Police.
(New chapter inserted, 1991, 412 § 22.) (See 1991, 412 § 139.)

§ 66 amended, 1998, 161 §§ 109, 110.

CHAPTER 22D - Department of Fire Services.
(New chapter inserted, 1996, 151 § 109.) (See 1996, 151 § 690.)

CHAPTER 22E - State DNA Database.
(New chapter inserted, 1997, 106 § 7.)

CHAPTER 23 - Department of Labor and Work Force Development.
(New title inserted, 1996, 1996, 151 § 110, Former title, Department of Labor and Industries.) (See 1996, 151 § 690.)

§ 1, subsection (a), first sentence revised, 1997, 43 § 38. (See 1997, 43 § 311.)

CHAPTER 23A - Department of Economic Development.
(New title inserted, Former title, Department of Commerce and Development.)

§ 1, subsection (a), first sentence revised, 1997, 43 § 39; paragraph (c) added, 1998, 194 § 65. (See 1997, 43 § 311.)

§ 3 amended, 1998, 161 § 111.

§ 3B amended, 1998, 161 § 112; **section revised**, 1998, 194 § 66.

§ 3C amended, 1998, 161 §§ 113, 114; subdivision 1, clause (h) added, 1998, 206 § 31.

§ 3D amended, 1997, 164 § 21; clause (G) revised, clause (H) added, 1997, 164 § 22; section amended, 1998, 161 § 115; paragraph (a), clause (ii), subclauses (I) and (j) added, 1998, 194 § 67; **section amended**, 1998, 463 § 22.

§ 3E amended, 1997, 164 § 23; **section amended**, 1998, 161 § 116; **section amended**, 1998, 194 § 67A.

§ 3F amended, 1998, 161 § 117.

§ 3H amended, 1998, 161 § 118.

§ 4 revised, 1998, 161 § 119.

§ 5 amended, 1998, 161 §§ 120, 121, 122.

§ 6 revised, 1998, 161 § 123.

§ 7 amended, 1998, 161 § 124.

§ 8 amended, 1998, 161 § 125.

§ 9 amended, 1998, 161 § 126.

§ 13A amended, 1998, 161 §§ 127, 128.

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- § 13C amended, 1998, 161 § 129; third paragraph revised, 1998, 194 § 68.
- § 13D amended, 1998, 161 § 130.
- § 13E amended, 1998, 161 § 131.
- § 14 amended, 1998, 161 §§ 132, 133.
- § 15, definition of "Executive director" stricken out, 1998, 161 § 134.
- § 20 amended, 1998, 161 § 135.
- § 23A amended, 1998, 161 §§ 136, 137.
- § 25 amended, 1998, 161 § 138.
- § 26 amended, 1998, 161 § 139.
- § 27 amended, 1998, 161 § 140.
- § 29 **repealed**, 1998, 289 § 25. (See 1998, 289 § 33.)
- § 30 **repealed**, 1998, 289 § 25. (See 1998, 289 § 33.)
- § 31 amended, 1998, 161 §§ 141, 142, 143; **section repealed**, 1998, 289 § 25. (See 1998, 289 § 33.)
- § 32 amended, 1997, 164 § 24; **repealed**, 1998, 289 § 25. (See 1998, 289 § 33.)
- § 33 **repealed**, 1998, 289 § 25. (See 1998, 289 § 33.)
- § 34 **repealed**, 1998, 289 § 25. (See 1998, 289 § 33.)
- § 34A **repealed**, 1998, 289 § 25. (See 1998, 289 § 33.)
- § 34B amended, 1998, 161 § 144; **repealed**, 1998, 289 § 25. (See 1998, 289 § 33.)
- § 35 amended, 1998, 161 § 145; **repealed**, 1998, 289 § 25. (See 1998, 289 § 33.)
- § 36 **repealed**, 1998, 289 § 25. (See 1998, 289 § 33.)
- § 37 **repealed**, 1998, 289 § 25. (See 1998, 289 § 33.)
- § 38 **repealed**, 1998, 289 § 25. (See 1998, 289 § 33.)
- § 38A **repealed**, 1998, 289 § 25. (See 1998, 289 § 33.)
- § 38B **repealed**, 1998, 289 § 25. (See 1998, 289 § 33.)
- § 38C **repealed**, 1998, 289 § 25. (See 1998, 289 § 33.)
- § 39A amended, 1998, 161 §§ 146, 147.
- § 39B amended, 1998, 161 § 148.
- § 39C amended, 1998, 161 § 149.
- § 39D amended, 1998, 161 § 150.
- § 40, definition of "Secretary" stricken out, 1998, 161 § 151.
- § 41 amended, 1998, 161 § 152.
- § 42 amended, 1998, 161 § 153.
- § 44 amended, 1998, 161 §§ 154, 155, 156, 157.
- § 45, first paragraph revised, 1998, 161 § 158; **section amended**, 1998, 161 §§ 159, 160.
- § 46 amended, 1998, 161 §§ 161, 162.
- § 48 amended, 1998, 161 § 163.
- § 49 amended, 1998, 161 §§ 164.
- § 51 amended, 1998, 161 §§ 165, 166.
- § 53 amended, 1998, 161 § 167.

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§ 54 amended, 1998, 161 § 168.

§ 56 amended, 1998, 161 §§ 169; paragraph (a) revised, 1998, 194 § 69.

§ 59, subsection (a), definition of "Secretary" stricken out, 1998, 161 §§ 170; **section amended**, 1998, 161 § 171.

§ 60 added, 1998, 206 § 32.

§ 61 added, 1998, 206 § 32.

**CHAPTER 23B - Department of Housing and Community Development.
(Title Changed, 1996, 204 § 15, Former Title, Division of Housing
and Community Development.)**

§ 1 revised, 1997, 43 § 40. (See 1997, 43 § 311.)

§ 2 revised, 1997, 43 § 40. (See 1997, 43 § 311.)

§ 3 amended, 1998, 161 §§ 172, 173.

§ 5A amended, 1998, 161 § 174.

§ 5B amended, 1998, 161 §§ 175, 176, 177, 178, 179.

§ 6 amended, 1998, 161 § 180.

§ 8 amended, 1998, 161 §§ 181, 182.

§ 9 amended, 1998, 161 § 183.

§ 10 amended, 1998, 161 §§ 184, 185.

§ 11 amended, 1998, 161 §§ 186, 187.

§ 12 amended, 1998, 161 § 188.

§ 15 amended, 1998, 161 § 189.

§ 24 amended, 1998, 161 § 190.

§ 24B amended, 1997, 43 § 41; clauses (a) and (b) revised, 1997, 43 § 42. (See 1997, 43 § 11.)

§ 27 amended, 1998, 161 §§ 191.

CHAPTER 23C - Board of Conciliation and Arbitration.

§ 2 amended, 1998, 161 § 192.

CHAPTER 23D - Massachusetts Industrial Service Program.

§ 3 amended, 1998, 161 §§ 193, 194.

§ 19 amended, 1998, 161 § 195.

**CHAPTER 23E - Division of Industrial Accidents.
(Former Title, Department of Industrial Accidents)**

§ 2 amended, 1998, 161 § 197.

§ 3 amended, 1998, 161 § 198.

CHAPTER 23E - continued

- § 9 amended, 1998, 161 § 199.
- § 11 amended, 1998, 161 § 200.
- § 15 amended, 1998, 161 § 201.
- § 17 amended, 1998, 161 § 202.

**CHAPTER 23F - The Economic Diversification Program.
(New chapter inserted, 1990, 525.)**

- § 2 amended, 1998, 161 §§ 203, 204, 205.
- § 3 amended, 1998, 161 § 206.
- § 4 amended, 1998, 161 § 207.
- § 8 amended, 1998, 161 § 208.

**CHAPTER 23G - The Massachusetts Development Finance Agency.
(New chapter inserted, 1998, 289§ 24.) (See 1998, 289 § 33.)**

- § 1, definition of "Revenues" revised, 1998, 463 § 23.
- § 29A added, 1998, 463 § 24.

**CHAPTER 24 - Department of Industrial Accidents.
(Chapter repealed, 1953, 314 § 14.)**

**CHAPTER 24A - Office of Consumer Affairs and Business Regulation.
(New chapter inserted, 1996, 151 § 148.) (See 1996, 151 § 690.)**

- § 1, subsection (a), first sentence revised, 1997, 43 § 439; section amended, 1997, 164 §§ 25, 26, 27. (See 1997, 43 § 311.)

CHAPTER 25 - Department of Public Utilities.

- § 1 amended, 1997, 164 § 28.
- § 2 revised, 1997, 164 § 29.
- § 3 revised, 1997, 164 § 30.
- § 4 amended, 1997, 164 §§ 31, 32.
- § 12E 2 added, 1997, 164 § 33.
- § 12M **repealed**, 1997, 164 § 34.
- § 12 O added, 1998, 99 § 3.
- § 17 **repealed**, 1997, 164 § 35.
- § 17A **repealed**, 1997, 164 § 36.
- § 18 revised, 1997, 164 § 37; **section revised**, 1998, 99 § 4.
- § 19 added, 1997, 164 § 37.
- § 20 added, 1997, 164 § 37; subsection (a), paragraph (2) revised, 1998, 463 § 25; subsection (b), first sentence revised, 1998, 463 § 26.

CHAPTER 25A - Division of Energy Resources.
(Formerly, Executive Office of Energy Resources.)

§ 1 amended, 1997, 164 §§ 38, 39, 40.
§ 3 amended, 1997, 164 § 41.
§ 5 amended, 1997, 164 § 42; amended, 1998, 463 § 27.
§ 6 amended, 1997, 164 §§ 43,44, 45.
§ 7 amended, 1997, 164 §§ 46, 47; paragraph inserted after second paragraph, 1997, 164 § 48; **section amended**, 1997, 164 § 49.
§ 11C amended, 1998, 161 §§ 209, 210; **section amended**, 1998, 194 § 70.
§ 11D added, 1997, 164 § 50.
§ 11E added, 1997, 164 § 50.
§ 11F added, 1997, 164 § 50.
§ 11G added, 1997, 164 § 50.

CHAPTER 25B - Massachusetts Appliance Efficiency Standards Act.

CHAPTER 26 - Department of Banking and Insurance.

§ 8G amended, 1997, 210 § 3.
§ 8H amended, 1998, 161 §§ 211, 212, 213, 214, 215.

CHAPTER 27 - Department of Correction.

CHAPTER 28 - Metropolitan District Commission.

CHAPTER 28A - Office For Children.

§ 2 amended, 1997, 43 § 44. (See 1997, 43 § 311.)
§ 3 amended, 1997, 43 § 45; **section amended**, 1998, 161 § 216. (See 1997, 43 § 311.)
§ 4 amended, 1997, 43 § 46; **section amended**, 1998, 161 §§ 217, 218; clause (I) revised, 1998, 463 § 28. (See 1997, 43 § 311.)
§ 8, first sentence revised, 1998, 161 § 219; third sentence revised, 1998, 161 § 220.
§ 9 amended, 1997, 43 § 47. (See 1997, 43 § 311.)
§ 10 amended, 1998, 161 § 221.
§ 17 added, 1998, 194 § 71.

CHAPTER 29 - State Finance.

§ 1, definition of "Budgeted revenues and other financial resources pertaining to the budgeted funds" added, 1997,10 § 3; definition of "Budget director" revised, 1998, 161 § 222; definition of "Balanced budget" inserted 1998, 194 § 72; definition of "State tax revenues" inserted, 1998, 194 § 73. (See 1998, 194 § 433.)

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§1F amended, 1998, 194 § 74.

§2G amended, 1998, 194 § 75.

§ 2H, second paragraph revised, 1997, 10 § 4; **section amended**, 1998, 175 § 2. (See 1998, 175 §23.)

§ 2I amended, 1998, 319 § 3. (See 1998, 319 § 45.)

§ 2Q amended, 1998, 161 § 223.

§ 2T, second paragraph, sentence added, 1998, 319 § 4. (See 1998, 319 § 45.)

§ 2U, first paragraph revised, 1997, 43 § 48; **section amended**, 1998, 194 § 76. (See 1997, 43 § 311.)

§ 2W revised, 1998, 78 § 2.

§ 2AA amended, 1998, 194 § 77.

§ 2DD revised, 1997, 11 § 17; sentence added, 1998, 235 § 1. (See 1998, 235 § 9.)

§ 2EE amended, 1998, 194 § 78.

§ 2FF, first sentence revised, 1997, 88 § 6; second sentence, clause (b) revised, clauses (c) and (d) inserted, 1997, 47 § 1; clause (c and (d) revised, clause (3) and (f) inserted, 1997, 170 § 1; third sentence revised, 1997, 170 § 2. (See 1997,47 § 37; 88 § 114.)

§ 2GG stricken out, 1997, 19 § 8.

§ 2II revised, 1997, 43 § 49; **section amended**, 1998, 194 § 79. (See 1997, 43 § 311.)

§ 2JJ added, 1997, 19 § 8.

§ 2KK added, 1997, 43 § 50. (See 1997, 43 § 311.)

§ 2LL added, 1997, 43 § 50. (See 1997, 43 § 311.)

§ 2MM added, 1997, 43 § 50. (See 1997, 43 § 311.)

§ 2NN added, 1997, 43 § 50. (See 1997, 43 § 311.)

§ 2OO added, 1997, 43 § 50; **section revised**, 1998, 194 § 80. (See 1997, 43 § 311.)

§ 2PP added, 1997, 226 § 4. (See 1997, 226 § 4.)

§ 2QQ added, 1998, 78 § 3.

§ 2RR added, 1998, 175 § 3; **section repealed**, 1998, 175 § 3A. (See 1998, 175 §§24, 25.)

§ 2SS added, 1998, 180 § 2.

§ 2TT added, 1998, 194 § 81.

§ 2UU added, 1998, 194 § 81.

§ 2UU added, 1998, 297 § 3; stricken out, 1998, 463 § 29. (See 1998, 297 § 5.)

§ 2VV added, 1998, 463 § 29.

§ 3 amended, 1998, 194 § 83.

§ 4 amended, 1998, 194 § 84.

§ 5, subsection (1), paragraph (h) revised, 1997, 10 § 5; **section repealed**, 1997, 88 § 7. (See 1997, 88 § 114.)

§ 5B amended, 1997, 43 §§ 51,52; **section amended**, 1998, 194 § 85. (See 1997, 43 § 311.)

§ 5C revised, 1997, 43 § 50; first sentence revised, 1997, 88 § 8; clause (a) revised, 1997, 88.

§ 6D added, 1998, 194 § 86. (See 1998, 194 § 433.)

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- § 6E added, 1998, 194 § 86. (See 1998, 194 § 433.)
- § 7A amended, 1998, 161 § 224; **section amended**, 1998, 194 § 87.
- § 7B amended, 1998, 194 § 88.
- § 7C amended, 1998, 161 § 225; **section amended**, 1998, 194 §§ 89, 90.
- § 7D amended, 1998, 161 § 226; **section amended**, 1998, 194 § 91.
- § 7E amended, 1998, 194 § 92.
- § 7F amended, 1998, 194 § 93.
- § 7G amended, 1998, 194 § 94.
- § 7H amended, 1998, 194 § 95.
- § 7I amended, 1998, 194 §§ 96, 97.
- § 7J amended, 1998, 194 § 98.
- § 7K amended, 1998, 194 § 99.
- § 9, last paragraph stricken out, 1997, 88 § 10. (See 1997, 43 § 311; 88 § 114.)
- § 13, first paragraph revised, 1997, 43 § 53. (See 1997, 43 § 311.)
- § 29F amended, 1998, 194 § 100.
- § 31, paragraph added, 1998, 319 § 5. (See 1998, 319 § 45.)
- § 49B, last paragraph revised, 1997, 11 § 18.
- § 64, third paragraph revised, 1998, 175 § 4. (See 1998, 175 § 27.)
- § 64B, fourth paragraph revised, 1998, 175 § 5. (See 1998, 175 § 27.)

CHAPTER 29A - Financing the Judicial System.

- § 4 amended, 1998, 194 § 101.
- § 6 amended, 1998, 194 § 102.
- § 29 amended, 1998, 161 § 227.
- § 29G, first two sentences revised, 1998, 161 § 228; **section amended**, 1998, 161 § 229.

CHAPTER 29B - State Revenue Growth Control.

(Chapter repealed, 1998, 194 § 103.) (See 1998, 194 § 433.)

- § 5 revised, 1997, 88 § 11. (See 1997, 88 § 114.)

CHAPTER 29C - Water Pollution Abatement Revolving Loan Program.

(New chapter inserted, 1989, 275 § 8.)

- § 1, definitions of “Drinking water project”, “Eligible borrower” and “Financial assistance or other forms of financial assistance” inserted, 1998, 78 § 4; definition of “Loan” revised, 1998, 78 § 5; **section amended**, 1998, 78 § 6; definition of “Safe drinking water act” inserted, 1998, 78 § 8.
- § 3, subsection (b), clause (i) revised, 1998, 78 § 10; clause (iii) revised, 1998, 78 § 11.
- § 6 revised, 1998, 78 § 12.

CHAPTER 29C - continued

§ 6A, second paragraph revised, 1998, 78 § 13.

§ 18 added, 1998, 78 § 14.

CHAPTER 30 - General Provisions Relative to State Departments, Commissions, Officers and Employees.

§ 7 amended, 1998, 161 § 230.

§ 39B amended, 1997, 164 §§ 51, 52, 53, 54.

§ 39C amended, 1997, 164 § 55.

§ 39E amended, 1997, 164 § 56.

§ 39G amended, 1998, 236 § 1; sixth paragraph, two sentences inserted after first sentence, 1998, 236 § 2.

§ 39K amended, 1998, 236 §§ 3, 4.

§ 39R amended, 1998, 194 §§ 104, 105; amended, 1998, 463 § 30.

§ 45 amended, 1998, 161 § 231.

§ 46I added, 1997, 43 § 56. (See 1997, 43 § 311.)

§ 58 amended, 1998, 463 § 31; second paragraph revised, 1998, 463 § 32.

CHAPTER 30A - State Administrative Procedure.

§ 1 amended, 1998, 161 § 232.

§ 13 amended, 1998 161 § 233.

§ 13A added, 1998, 64 § 4.

§ 14 amended, 1998, 463 § 33.

CHAPTER 30B - Uniform Procurement Act. (New chapter inserted, 1989, 687 § 3.)

§ 1 amended, 1997, 164 § 57; subsection (b), clause (31) revised, clauses (32) and (33) added, 1997, 164§ 58.

§ 6, subsection (k) added, 1997, 164 § 59.

§ 7 amended, 1998, 172; **section amended**, 1998, 463 § 34.

CHAPTER 31 - Civil Service.

§ 1 amended, 1998, 161 § 234; definition of "Department" stricken out and definition of "Department" or "Division" inserted, 1998, 161 § 235.

§ 3, paragraph (f), paragraph added, 1998, 194 § 106.

§ 47A amended, 1998, 161 §§ 236, 237, 238.

§ 48 amended, 1997, 164 § 60; **section amended**, 1998, 161 §§ 239, 240, 241.

§ 66 amended, 1998, 161 § 242.

CHAPTER 31A - Municipal Personnel Systems.

- § 2 amended, 1998, 161 243; definition of “Department” stricken out and definition of “Department” or “Division” inserted, 1998, 161 § 244.
- § 3 amended, 1998, 161 § 245.
- § 9 amended, 1998, 161 § 246.

CHAPTER 32 - Retirement Systems and Pensions.

- § 1, definition of “IV-D agency” inserted, 1998, 64 § 5.
- § 3 amended, 1998, 161 § 247; **section amended**, 1998, 194 § 107; **section amended**, 1998, 463 § 35.
- § 4 amended, 1998, 161 § 248; paragraph (o½) inserted, 1998, 456 § 1.
- § 5B revised, 1998, 252 § 1.
- § 6 amended, 1998, 463 §§ 36, 37.
- § 8, subdivision (2), paragraph (a) revised, 1998, 252 § 2.
- § 10 amended, 1998, 64 § 6.
- § 11 amended, 1998, 64 § 7; subdivision (1), paragraph (c) added, 1998, 64 § 8; **section amended**, 1998, 64 § 9; subdivision (1), paragraph (c) amended, 1998, 463 § 38.
- § 14 amended, 1998, 463 § 39.
- § 19 amended, 1998, 64 §§ 10, 11.
- § 19A, paragraph added, 1998, 64 § 12.
- § 19C added, 1998, 64 § 13.
- § 20, subdivision (4½), paragraph (b), second sentence revised, 1997, 3 §§ 1, 4; paragraph (c), second sentence revised, 1997, 3 § 2; paragraphs (e) and (f), second sentence revised, 1997, 3 § 3; subdivision (4¾), paragraph (b), second sentence revised, 1997, 3 § 5; 11 § 20; subdivision (5), paragraph (l) added, 1998, 64 14; **section amended**, 1998, 252 § 3.
- § 21, subdivision (3), paragraph (f) inserted, 1997, 17 § 1.
- § 22, subdivision (7), paragraph (a), two sentences inserted, 1997, 43 § 57. (See 1997, 43 § 311.)
- § 22C amended, 1997, 43 §§ 58, 59. (See 1997, 43 § 311.)
- § 22D, first paragraph, subdivision (1), third, fourth and fifth sentences revised, 1997, 17 § 2.
- § 23, subdivision (2) amended, 1997, 119 § 1; paragraph (h) added, 1997, 119 § 2; subdivision (2A), paragraph (h), two sentences inserted after first sentence, 1997, 119 § 3, 1997, 119 § 3; **section amended**, 1998, 463 § 40.
- § 59A amended, 1998, 161 249.
- § 85H½ amended, 1998, 161 250.
- § 89 amended, 1998, 161 251.
- § 90A amended, 1997, 177 §§ 1, 2.
- § 90C amended, 1997, 177 §§ 3, 4.
- § 90C½ added, 1998, 194 § 109.
- § 90D amended, 1997, 177 §§ 5, 6.

CHAPTER 32 - continued

§ 90E amended, 1997, 177 § 7.

§ 91 amended, 1998, 300 § 1.

§ 100A revised, 1997, 19 § 9.

§ 102, paragraph (a) revised, 1997, 17 § 3; paragraph (b) amended, 1997, 17 § 4; paragraph (c) revised, 1997, 17 § 5; paragraph (d) amended, 1997, 17 § 6; paragraph (e) amended, 1997, 17 § 7; paragraph (g) added, 1998, 456 § 2.

§ 103 added, 1997, 17 § 8; paragraph (h) added, 1998, 456 § 3.

CHAPTER 32A - Contributory Group General or Blanket Insurance for Persons in the Service of the Commonwealth.

§ 8, fourth paragraph revised, 1998, 478 § 3.

§ 17E added, 1998, 140 § 1.

§ 17F added, 1998, 243 § 1.

§ 20, added by section 187 of chapter 151 of 1996 stricken out, 1998, 463 § 41.

§ 21 added, 1998, 463 § 41.

CHAPTER 32B - Contributory Group General or Blanket Insurance for Persons in the Service of Counties, Cities, Towns and Districts, and their Dependents.

CHAPTER 33 - Militia.

§ 15, paragraph (f), sentence added, 1997, 43 § 60. (See 1997, 43 § 311.)

§ 59 amended, 1998, 49.

§ 83 amended, 1998, 194 § 110.

CHAPTER 34 - Counties and County Commissioners.

CHAPTER 34A - County Charter Procedures.

CHAPTER 35 - County Treasurers, State Supervision of County Accounts and County Finances.

§ 26A amended, 1998, 194 § 111.

§ 28B amended, 1998, 194 § 112.

CHAPTER 36 - Registers of Deeds.

§ 40 added, 1998, 194 § 113.

CHAPTER 37 - Sheriffs.

§ 21A added, 1997, 48 § 15. (See 1997, 48 § 27.)

CHAPTER 38 - Medical Examiners.

§ 8 amended, 1997, 164 § 61.

§ 9 amended, 1997, 164 § 62.

CHAPTER 39 - Municipal Government.

CHAPTER 40 - Powers and Duties of Cities and Towns.

§ 5B amended, 1998, 463 § 42.

§ 5H added, 1998, 463 § 43.

§ 13A amended, 1998, 463 § 44.

§ 22D amended, 1997, 164 § 63.

§ 22F, second paragraph, first sentence revised, 1998, 180 § 3.

§ 32B amended, 1998, 161 § 252.

§ 39C amended, 1997, 164 § 64.

§ 59 amended, 1998, 161 §§ 253, 254.

CHAPTER 40A - Zoning Regulations.

§ 3 amended, 1997, 164 §§ 65, 66.

§ 5 amended, 1998, 161 § 255.

CHAPTER 40B - Regional Planning.

§ 4B amended, 1998, 463 § 45.

§ 9 amended, 1998, 161 § 256.

§ 10 amended, 1998, 161 § 257.

§ 11 amended, 1998, 161 § 258.

§ 13 amended, 1998, 161 § 259.

§ 22 amended, 1998, 161 § 260.

§ 23 amended, 1998, 161 § 261.

§ 24 amended, 1998, 161 § 262.

CHAPTER 40C - Historic Districts.

§ 3 amended, 1998, 161 § 263.

CHAPTER 40D - Industrial Development of Cities and Towns.

§ 12 amended, 1998, 161 §§ 264, 265.

CHAPTER 40E - Massachusetts Industrial Development Authority.

§ 2 amended, 1998, 161 §§ 266, 267.

§ 8 amended, 1998, 161 § 268.

CHAPTER 40F - The Massachusetts Community Development Finance Corporation.

CHAPTER 40G - Massachusetts Technology Development Corporation.

§ 2 amended, 1998, 161 §§ 269, 270.

CHAPTER 40H - Community Economic Development Assistance Corporation.

CHAPTER 40I - The Bay State Skills Corporation Act.

(Chapter repealed, 1996, 151 § 196.) (See 1996, 151 § 690.)

CHAPTER 40J - Massachusetts Technology Park Corporation.

§ 3, second paragraph, first sentence stricken out, two sentences inserted, 1997, 164 § 67;
section amended, 1998, 161 §§ 271, 272.

§ 4E added, 1997, 164 § 68.

§ 12 amended, 1998, 161 §§ 273, 274.

CHAPTER 40K - Massachusetts Product Development Corporation.

(Chapter repealed, 1996, 58 § 23.) (See 1996, 58 § 105.)

CHAPTER 40L - Agricultural Incentive Areas.

CHAPTER 40M - Governmental Unit Pooled Insurance.

CHAPTER 40N - Model Water and Sewer Commission.

(New chapter inserted, 1992, 343 § 2.)

§ 4 amended, 1998, 463 § 46.

CHAPTER 40O - Business Improvement Districts.

(New chapter inserted, 1994, 173.)

§ 3 amended, 1998, 161 § 275.

CHAPTER 40P - The Massachusetts Rent Control Prohibition Act.

(New chapter inserted, 1994, 368 § 1.) (See 1994, 368 § 2.)

(Voted by the People under Art. XLVIII.)

(Chapter stricken out, 1997, 19 § 10.) (See 1997, 19 § 127.)

CHAPTER 40P - The Massachusetts Rent Control Prohibition Act.
(New chapter inserted, 1997, 19 § 10.) (See 1997, 19 § 127.)

CHAPTER 41 - Officers and Employees of Cities, Towns and Districts.

§ 1B added, 1997, 149.

§ 55, fourth sentence stricken out, two sentences inserted, 1997, 228.

§ 71 amended, 1998, 161 § 276.

§ 81C amended, 1998, 161 § 277.

§ 81D amended, 1998, 161 § 278.

§ 81E amended, 1998, 161 § 279.

§ 111 amended, 1998, 161 § 280.

§ 111B amended, 1998, 161 § 281.

CHAPTER 42 - Boundaries of Cities and Towns.

CHAPTER 43 - City Charters.

CHAPTER 43A - Standard Form of Representative Town Meeting Government.

CHAPTER 43B - Home Rule Procedures.

§ 6 amended, 1998, 161 § 282.

§ 9 amended, 1998, 161 § 283.

§ 10 amended, 1998, 161 § 284.

§ 12 amended, 1998, 161 § 285.

§ 16 amended, 1998, 161 § 286.

CHAPTER 43C - Optional Forms of Municipal Administration Act.
(New chapter inserted, 1987, 756.)

§ 12 amended, 1998, 161 § 287.

CHAPTER 44 - Municipal Finance.

§ 8 amended, 1998, 161 § 288.

§ 21A, second paragraph, sentence added, 1998, 194 § 114.

CHAPTER 44A - Qualified Bond Act.

CHAPTER 45 - Public Parks, Playgrounds and the Public Domain.

CHAPTER 46 - Return and Registry of Births, Marriages and Death.

§ 1 revised, 1998, 64 § 15.

§ 1E, paragraph (c revised, 1998, 64 § 16; **section amended**, 1998, 64 § 17.

§ 3A, first paragraph, second and third sentences stricken out and four sentences inserted, 1998, 64 § 18; second paragraph stricken out, 1998, 64 § 19.

§ 3C, two sentences added, 1998, 64 § 20.

§ 3D added, 1998, 64 § 21.

§ 13 revised, 1998, 64 § 22.

§ 17 revised, 1998, 64 § 23.

§ 17A added, 1998, 64 § 24.

§ 17B added, 1998, 64 § 24.

§ 17C added, 1998, 64 § 24.

§ 17D added, 1998, 64 § 24.

CHAPTER 47 - Infirmarys.

CHAPTER 48 - Fires, Fire Departments and Fire Districts.

§ 9 amended, 1997, 51 § 1.

§ 10 amended, 1997, 51 § 2.

§ 13, seventh sentence revised, 1997, 51 § 3.

§ 15 amended, 1997, 51 § 4.

§ 19 amended, 1997, 51 § 5.

§ 20 revised, 1997, 51 § 6.

§ 21 revised, 1997, 51 § 7.

§ 22 amended, 1997, 51 § 8.

§ 24, third sentence stricken out, 1997, 51 § 9.

§ 26 amended, 1997, 51 § 10.

§ 28C revised, 1997, 51 § 11.

§ 29 **repealed**, 1997, 51 § 12.

§ 30 **repealed**, 1997, 51 § 12.

§ 31 **repealed**, 1997, 51 § 12.

§ 32 **repealed**, 1997, 51 § 12.

§ 33 **repealed**, 1997, 51 § 12.

§ 34 **repealed**, 1997, 51 § 12.

§ 35 **repealed**, 1997, 51 § 12.

§ 38 **repealed**, 1997, 51 § 13.

§ 40 amended, 1997, 51 § 14.

§ 44A revised, 1998, 484.

§ 47, first sentence revised, 1997, 51 § 15.

§ 48 amended, 1997, 51 § 16.

§ 50 **repealed**, 1997, 51 § 17.

CHAPTER 48 - continued

- § 51A revised, 1997, 51 § 18.
- § 52 revised, 1997, 51 § 19.
- § 53 amended, 1997, 51 § 20.
- § 54 amended, 1997, 51 § 21.
- § 65 revised, 1997, 51 § 22.

CHAPTER 49 - Fences, Fence Viewers, Pounds and Field Drivers.

CHAPTER 49A - Use of Certain Animals for Scientific Investigation, Experiment or Instruction.

CHAPTER 50 - General Provisions Relative to Primaries, Caucuses and Elections.

CHAPTER 51 - Voters

- § 4 amended, 1998, 87 § 1.
- § 37 amended, 1998, 87 § 2.
- § 44 amended, 1998, 87 § 3.

CHAPTER 52 - Political Committees.

CHAPTER 53 - Nominations, Questions to be Submitted to the Voters, Primaries and Caucuses.

- § 44, fourth and fifth sentences stricken out, 1998, 281.

CHAPTER 54 - Elections.

- § 42A, first sentence revised, 1997, 19 § 11.
- § 143A added. 1998, 300 § 2.

CHAPTER 54A - Election of City and Town Officers by Proportional Representation and Preferential Voting.

CHAPTER 55 - Disclosure of Campaign Expenditures and Contributions and Election Inquests.

- § 1, definition of "Contribution" amended, 1998, 394 § 1; 1998 395 § 6.
- § 7, paragraph inserted after first paragraph, 1998, 394 § 2; **section amended**, 1999, 394 § 3.
- § 18 amended, 1998, 394 §§ 4, 5 6.
- § 18C added, 1998, 395 § 7.

CHAPTER 55 - continued

§ 19 amended, 1998, 394 § 7; subsection (c), paragraph added, 1998, 394 § 8; **section amended**, 1998, 394 § 9.

§ 22 revised, 1998, 394 § 10.

§ 25 amended, 1998, 394 § 11.

CHAPTER 55A - The Massachusetts Clean Election Law.

(Chapter revised, 1998, 395 § 2)(New title inserted, 1998, 395 § 2, Former Title, Limited Public Financing of Campaigns for Statewide Elective Office.)

CHAPTER 55B - The State Ballot Law Commission.

CHAPTER 56 - Violations of Elections Laws.

CHAPTER 57 - Congressional, Councilor and Senatorial Districts, and Apportionment of Representatives.

CHAPTER 58 - General Provisions relative to Taxation.

CHAPTER 58A - Appellate Tax Board.

(Former title, Board of Tax Appeals.)

(Chapter revised, 1998, 485 § 2.) (See 1998, 485 § 23.)

§ 10 revised, 1997, 43 § 61. (See 1997, 43 § 311.)

CHAPTER 59 - Assessment of Local Taxes.

§ 2A amended, 1997, 164 § 69.

§ 2D added, 1998, 203.

§ 5 amended, 1997, 88 §§ 12, 13; clause Twenty-second, paragraph added, 1997, 88 § 14; **section amended**, 1997, 88 §§ 15, 16, 17, 18, 19, 20, 21,22; **section amended**, 1997, 164 § 70. (See 1997, 88 § 114.)

§ 5I amended, 1998, 161 § 289.

§ 38H added, 1997, 164 § 71; first paragraph amended, 1998, 463 § 47; subsection (a) amended, 1998, 463 § 48; subsection (c) revised, 1998, 194 § 115; second sentence revised, 1998, 481 § 3. (See 1998, 481 § 9.)

§ 57C, two paragraphs inserted after eighth paragraph, 1997, 237 § 1.

§ 59A added, 1998, 206 § 33.

§ 64 amended, 1998, 485 §§ 3, 4. (See 1998, 485 § 23.)

CHAPTER 59A - Classification of Real Property.

CHAPTER 60 - Collection of Local Taxes.

§ 3D added, 1998, 166.

CHAPTER 60A - Excise Tax on Registered Motor Vehicles in Lieu of Local Property Tax.

§ 1 amended, 1998, 194 §§ 116, 117, 118; after first paragraph, paragraph inserted, 1998, 194 § 119.

CHAPTER 60B - Excise on Boats, Ships and Vessels in Lieu of Local Property Tax.

**CHAPTER 61 - Classification and Taxation of Forest Lands and Forest Products.
(Former title, Taxation of Forest Products and Classification and
of Forest Lands.)**

CHAPTER 61A - Assessment and Taxation of Agricultural and Horticultural Land.

§ 11 amended, 1998, 161 § 290.

CHAPTER 61B - Classification and Taxation of Recreational Land.

§ 1 amended, 1998, 194 § 120.

CHAPTER 62 - Taxation of Incomes.

§ 1 amended, 1998, 175 § 6; paragraph (m), second paragraph revised, 1998, 175 § 7; first sentence revised, 1998, 194 § 121; **section amended**, 1998, 319 § 6. (See 1998, 175 § 27; 319 § 45.)

§ 2 amended, 1997, 139 § 1; subsection (a), paragraph (1), subparagraph (D) stricken out, 1998, 175 § 8; paragraph (3) added, 1998, 175 § 9. (See 1998, 175 § 27.)

§ 3 amended, 1997, 43 § 62; **section amended**, 1998, 175 §§ 10, 11, 12, 13, 14, 15; subsection B, subparagraph (4) of paragraph (a) amended, 1998, 485 § 5. (See 1997, 43 § 307; 1998, 175 § 28; 485 § 23.)

§ 4, subsection (a) revised, 1998, 175 § 16. (See 1998, 175 § 28.)

§ 5, subsection (c) added, 1998, 175 § 17. (See 1998, 175 § 27.)

§ 6, subsections (h) and (i) added, 1997, 43 § 63; **section amended**, 1998, 161 § 291; subsection (a) amended, 1998, 396 § 2; subsection (i), second sentence revised, 1998, 175 § 18; subsection (j) added, 1998, 206 § 34. (See 1997, 43 § 307; 1998, 175 § 27.)

§ 6C amended, 1998, 395 § 5.

§ 10A added, 1998, 319 § 7; **section revised**, 1998, 463 § 49. (See 1998, 319 § 45.)

§ 17, paragraph (e), paragraph added, 1998, 296 § 1.

CHAPTER 62A - Simplified Method of Computing Individual Income Taxes.

CHAPTER 62B - Withholding of Taxes on Wages and Declaration of Estimated Income Tax.

§ 13 amended, 1998, 485 § 6. (See 1998, 485 § 23.)

§ 14, subsection (a) amended, 1998, 485 § 7; subsection (d), clause (i) revised, 1998, 485 § 8. (See 1998, 485 § 23.)

CHAPTER 62C - Administrative Provisions Relative to State Taxation.

§ 3, three paragraphs added, 1998, 485 § 9. (See 1998, 485 § 23.)

§ 21, subsection (b), clause (9) revised, 1997, 47 § 2; **section amended**, 1998, 64 § 25; subsection (b), clause (9) revised, 1997, 47 § 2; paragraphs (17) and (18) added, 1998, 64 § 27; **section amended**, 1998, 161 §§ 291, 292, 293, 294. (See 1997, 47 § 37.)

§ 26, subsection (b) amended, 1998, 485 § 10; subsection (j) added, 1998, 485 § 11. (See 1998, 485 § 23.)

§ 30, paragraph added, 1998, 485 § 12. (See 1998, 485 § 23.)

§ 37A amended, 1998, 485 § 13; subparagraph (a) revised, 1998, 485 § 14. (See 1998, 485 § 23.)

§ 37C added, 1998, 485 § 16. (See 1998, 485 § 23.)

§ 40 amended, 1998, 485 § 17. (See 1998, 485 § 23.)

§ 47A amended, 1998, 64 §§ 28, 29, 30; **section amended**, 1998, 463 § 50.

§ 49A amended, 1998, 64 §§ 31, 32, 33; **section amended**, 1998, 463 § 51.

§ 54, subsection (e) added, 1998, 485 § 18. (See 1998, 485 § 23.)

§ 55A amended, 1998, 463 § 52.

§ 65, paragraph added, 1998, 485 § 19. (See 1998, 485 § 23.)

CHAPTER 62D - Set-off Debt Collection.

§ 1, definition of "Claimant agency" revised, 1997, 47 § 3; definition of "Debt" revised, 1997, 47 § 4; definition of "Debtor" revised, 1997, 47 § 5; **section amended**, 1998, 161 § 296. (See 1997, 47 § 37.)

§ 8, paragraph added, 1997, 47 § 6. (See 1997, 47 § 37.)

§ 10 amended, 1998, 47 § 7. (See 1997, 47 § 37.)

§ 13, clause (v) revised, 1997, 66 § 12; clause (vii) revised, 1997, 47 § 8; **section amended**, 1998, 161 § 297. (See 1997, 47 § 37.)

CHAPTER 62E - Wage Reporting System.

§ 1 revised, 1998, 64 § 34.

§ 2 amended, 1998, 64 §§ 35, 36, 37, 38; sentence inserted after sixth sentence, 1998, 194 § 122.

CHAPTER 62E - continued

- § 3 amended, 1997, 47 § 9; **section amended**, 1998, 64 § 39; **section amended**, 1998, 161 § 298; **section amended**, 1998, 463 § 53. (See 1997, 47 § 37.)
- § 4 amended, 1998, 64 §§ 40, 41, 42, 43.
- § 5 amended, 1998, 64 §§ 44, 45, 46.
- § 8 amended, 1998, 64 § 47.
- § 9 revised, 1998, 64 § 48; first paragraph revised, 1998, 194 § 123.
- § 10 amended, 1998, 64 §§ 49, 50.
- § 11 amended, 1998, 64 §§ 51, 52, 53.
- § 12 amended, 1998, 64 § 54; second paragraph, sentence inserted after first sentence, 1998, 64 § 55; **section amended**, 1998, 161 § 299.
- § 13 amended, 1998, 64 § 56.
- § 14 amended, 1998, 64 § 57.

CHAPTER 62F - Limitation on the Growth of State Tax Revenues.

CHAPTER 63 - Taxation of Corporations.

- § 29C added, 1998, 259 § 1. (See 1998, 259 § 10.)
- § 29D added, 1998, 259 § 1. (See 1998, 259 § 10.)
- § 29E added, 1998, 259 § 1. (See 1998, 259 § 10.)
- § 30, paragraph 1 amended, 1998, 198 § 1; paragraph 2 amended, 1998, 198 § 2.
- § 31C amended, 1998, 161 §§ 300, 301, 302, 303.
- § 32 amended, 1998, 198 § 3.
- § 38Q added, 1998, 206 § 35.

CHAPTER 63A - Taxation of Certain Corporations, Associations and Organizations Engaged in the Sale of Alcoholic Beverages.

CHAPTER 63B - Declaration of Estimated Tax by Corporations.

CHAPTER 63C - Taxation of Income of Certain Corporations.
(Chapter repealed, 1985, 593 § 24.)

CHAPTER 64 - Taxation of Stock Transfers.

CHAPTER 64A - Taxation of Sales of Gasoline.
(Former Title, Taxation of Sales of Gasoline and Certain other Motor Vehicle Fuel.)

CHAPTER 64B - Excise upon Charges for Meals Served to the Public.

CHAPTER 64C - Cigarette Excise.

§ 7A amended, 1998, 463 § 54.

§ 7B amended, 1998, 463 § 55.

§ 28, clauses (a), (b) and (c) revised, 1997, 170 § 3; **section amended**, 1998, 161

§ 104. (See 1997, 28 § 46.)

CHAPTER 64D - Excise on Deeds, Instruments and Writings.

§ 13 amended, 1998, 300 § 3.

CHAPTER 64E - Taxation of Special Fuels Used in the Propulsion of Motor Vehicles.

CHAPTER 64F - Taxation of Fuel and Special Fuels Acquired Outside and Used within the Commonwealth.

CHAPTER 64G - Room Occupancy Excise.

§ 3A amended, 1997, 152 § 22.

§ 12 added, 1997, 43 § 64. (See 1997, 43 § 308.)

CHAPTER 64H - Tax on Retail Sales of Certain Tangible Personal Property.

§ 1 amended, 1997, 88 § 23. (See 1997, 88 § 114.)

§ 6 amended, 1997, 164 §§ 72, 73; **section amended**, 1998, 313 § 1; paragraph (f) revised, 1998, 486 § 1.

§ 26 revised, 1998, 75 § 1.

§ 33, second sentence revised, 1998, 485 § 20. (See 1998, 485 § 23.)

CHAPTER 64I - Tax on Storage, Use or Other Consumption of Certain Tangible Personal Property.

§ 27 revised, 1998, 75 § 2.

CHAPTER 64J - Taxation of Fuels Used in the Propulsion of Aircraft.

CHAPTER 64K - Controlled Substances Tax
(New Chapter inserted, 1993, 110 § 127.) (See 1993, 110 § 390.)

§ 1 amended, 1998, 463 § 56.

CHAPTER 65 - Taxation of Legacies and Successions.

§ 6, paragraph (b), sentence added, 1998, 147 § 1.

CHAPTER 65A - Taxation of Transfers of Certain Estates.

CHAPTER 65B - Settlement of Disputes Respecting the Domicile of Decedents for Death Tax Purposes.

CHAPTER 65C - Massachusetts Estate Tax.

§ 6, subsection (a), sentence added, 1998, 147 § 2.

CHAPTER 66 - Public Records.

§ 10 amended, 1998, 238.

§ 17A amended, 1998, 161 § 305.

CHAPTER 66A - Fair Information Practices.

§ 3 amended, 1998, 161 § 306.

CHAPTER 67 - Parishes and Religious Societies.

CHAPTER 68 - Donations and Conveyances for Pious and Charitable Uses.

CHAPTER 68A - Limitations Upon the Conduct of Certain Trusts and Corporations Having Charitable Interests.

CHAPTER 69 - Powers and Duties of the Department of Education.

§ 1F amended, 1997, 66 § 13.

§ 1H, paragraph added, 1998, 194 § 124.

§ 1M added, 1997, 46 § 1.

§ 9A amended, 1998, 463 § 57.

§ 30 amended, 1997, 66 § 14.

§ 30A amended, 1997, 66 §§ 15, 16.

§ 31 amended, 1997, 66 § 17.

§ 31A amended, 1997, 66 § 18.

§ 31B amended, 1997, 66 § 19.

**CHAPTER 70 - School Funds and State Aid for Public Schools.
(Former title, School Funds and Other State Aid for Public
Schools.) (Chapter revised, 1993, 71 § 32.)**

§ 2 amended, 1998, 194 § 125. (See 1998, 194 § 433.)

§ 6, paragraph added, 1998, 194 § 126.

CHAPTER 70 - continued

§ 8 amended, 1997, 88 § 24. (See 1997, 88 § 114.)

§ 11 added, 1997 43 § 68. (See 1997, 43 § 311.)

**CHAPTER 70A - Equal Educational Opportunity Grants.
(Chapter repealed, 1993, 71 § 33.)**

CHAPTER 71 - Public Schools.

§ 1, paragraph added, 1998, 422.

§ 6 amended, 1998, 463 § 58.

§ 6A amended, 1998, 463 § 59.

§ 7B amended, 1998, 463 § 60.

§ 16D½ amended, 1998, 463 § 61.

§ 24 amended, 1998, 463 § 62.

§ 34A added, 1998, 285.

§ 37J amended, 1998, 463 § 63.

§ 38G, paragraph added, 1998, 194 § 127.

§ 63 amended, 1998, 463 § 64.

§ 69 amended, 1998, 463 § 65.

§ 89 revised, 1997, 46 § 2; paragraph (ff), third sentence stricken out and two sentences inserted, 1997, 176 § 1; subsection (v) revised, 1998, 99 § 5. (See 1997, 176 § 2.)

CHAPTER 71A - Transitional Bilingual Education.

CHAPTER 71B - Children with Special Needs.

§ 3, fifth paragraph amended, 1997, 43 § 69; **section amended**, 1997, 43 § 70. (See 1997, 43 § 311.)

§ 5 amended, 1997, 43 §§ 71, 72; second paragraph, first sentence revised, 1998, 194 § 130. (See 1997, 43 § 311; 1998, 194 § 433.)

§ 5A, first paragraph, last two sentences revised, 1998, 161 § 307.

§ 12B amended, 1998, 161 § 308.

§ 12C amended, 1998, 161 § 309; sixth paragraph revised, 1998, 161 § 310.

CHAPTER 72 - School Registers and Returns.

**CHAPTER 73 - State Colleges and Community Colleges.
(Former title, State Teachers Colleges and Community Colleges.)**

§ 2 amended, 1997, 78 § 2.

§ 19 amended, 1997, 78 § 3.

CHAPTER 74 - Vocational Education.

§ 26 amended, 1998, 300 § 4; paragraph added, 1998, 300 § 5.
§ 28, paragraph added, 1998, 300 § 6.
§ 30 amended, 1998, 300 § 7.
§ 31C revised, 1998, 300 § 8.
§ 33 amended, 1998, 300 §§ 9, 10.

**CHAPTER 75 - University of Massachusetts.
(Former title, Massachusetts State College.)**

§ 1A amended, 1997, 66 § 20; 1997, 88 § 25. (See 1997, 88 § 114.)
§ 2 amended, 1997, 66 § 21.
§ 14D added, 1998, 194 § 131
§ 36C amended, 1998, 161 § 311
§ 38 amended, 1998, 194 § 132.
§ 44 added, 1997, 163 § 2.

**CHAPTER 75A - University of Lowell.
(Former title, Lowell Technological Institute of Massachusetts.)
(Chapter repealed, 1991, 142 § 23.) (See 1991, 142 §§ 4, 50.)**

**CHAPTER 75B - Southeastern Massachusetts University.
(Former title, South Eastern Massachusetts University)
(Former title Southeastern Massachusetts Technological Institute.)
(Chapter repealed, 1991, 142 § 24. (See 1991, 142 §§ 19, 50.)**

CHAPTER 75C - Private Correspondence Schools.

CHAPTER 75D - Private Business Schools.

CHAPTER 76 - School Attendance.

CHAPTER 77 - School Offenders and County Training Schools.

CHAPTER 78 - Libraries.

§ 19C, introductory paragraph revised, 1997, 43 § 75; clause (2) revised, 1998, 194 § 133;
clause (3) revised, 1997, 43 § 76. (See 1997, 43 § 311.)
§ 19D added, 1997, 43 § 77; **section revised**, 1998, 194 § 134. (See 1997, 43 § 311.)
§ 19E, first paragraph revised, 1998, 194 § 135; second paragraph, introductory paragraph
and clauses (1) and (2) stricken out, 1998, 194 § 135A; **section amended**, 1998, 463
§§ 66, 67, 68, 69.

CHAPTER 78 - continued

§ 19I amended, 1998, 194 § 136.

§ 19M added, 1997, 43 § 78. (See 1997, 43 § 311.)

§ 19N added, 1997, 43 § 78. (See 1997, 43 § 311.)

**CHAPTER 78A - Youth Conservation and Service Corps.
(Chapter inserted 1993, 19 § 19.)**

§ 2 amended, 1998, 161 § 312.

CHAPTER 79 - Eminent Domain.

§ 3 amended, 1997, 164 § 74.

§ 5B amended, 1997, 164 § 75.

§ 5C amended, 1997, 164 § 76.

CHAPTER 79A - Relocation Assistance.

§ 1 amended, 1998, 161 § 313.

CHAPTER 80 - Betterments.

CHAPTER 80A - Eminent Domain Takings and Betterment Assessments by Judicial Proceedings.

CHAPTER 81 - State Highways.

§ 7C amended, 1998, 161 § 314.

**CHAPTER 81A - The Massachusetts Turnpike Authority and the Metropolitan Highway System.
(Chapter inserted 1997, 3 § 6.)**

§ 3, definition of "Metropolitan highway system" revised, 1997, 11 § 21; definition of "Turnpike" revised, 1997, 11 § 22.

§ 4, clauses (I) and (j) revised, 1997, 11 § 23; clause (o) revised, 1997, 11 § 24.

§ 5, subsection (b), clause (ii) revised, 1997, 11 § 25.

§ 12, subsection (c), four sentences added, 1998, 235 § 2.

§ 13, third paragraph, second sentence revised, 1997, 164 § 77.

§ 28, subsection (a), first sentence revised. 1997, 11 § 26; 1998, 194 § 137.

§ 30, paragraph (a), first sentence revised, 1998, 194 § 138.

CHAPTER 82 - The Laying Out, Alteration, Relocation and Discontinuance of Public Ways, and Specific Repairs Thereon.

§ 40 amended, 1997, 164 § 78; third paragraph, sentence added, 1998, 194 § 139; **section revised**, 1998, 332 § 1.

§ 40A added, 1998, 332 § 1.

§ 40B added, 1998, 332 § 1.

§ 40C added, 1998, 332 § 1.

§ 40D added, 1998, 332 § 1.

§ 40E added, 1998, 332 § 1.

CHAPTER 83 - Sewers Drains and Sidewalks.

§ 1 amended, 1997, 164 § 79.

§ 4 amended, 1997, 164 § 80.

CHAPTER 84 - Repair of Ways and Bridges.

CHAPTER 85 - Regulations and By Laws to Ways and Bridges.

§ 11D amended, 1998, 463 § 70.

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CHAPTER 87 - Shade Trees.

§ 1 amended, 1998, 182 § 1.

§ 7 revised, 1998, 182 § 2.

CHAPTER 88 - Ferries, Canals and Public Landings.

CHAPTER 89 - Law of the Road.

§ 7A amended, 1997, 19 § 12.

CHAPTER 90 - Motor Vehicles and Aircraft.

§ 1 amended, 1997, 210 §§ 4, 5; definition of "Emissions analyzer" stricken out, 1997, 210 § 6; **section amended**, 1997, 210 §§ 7, 8.

§ 1A amended, 1997, 164 § 82.

§ 2, fifth paragraph, second third and fourth sentences stricken out and two sentences inserted, 1998, 155 § 1; eighth paragraph, sixth sentence stricken out and two sentences inserted, 1998, 194 § 140.

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- § 7A revised, 1997, 210 § 9.
- § 7B amended, 1997, 164 §§ 83, 84, 85, 86; first paragraph, clause (17) revised, 1998, 470.
- § 7N amended, 1997, 210 § 10.
- § 7N¼ amended, 1998, 161 §§ 315, 316.
- § 7W revised, 1997, 210 § 11.
- § 8 amended, 1998, 220 §§ 1, 2; second paragraph stricken out and four paragraphs inserted, 1998, 220 § 3.
- § 8A amended, 1997, 164 §§ 87, 88, 89, 90.
- § 8A ½ amended, 1997, 164 § 91.
- § 8B amended, 1998, 194 § 141; **section amended**, 1998, 220 §§ 4, 5.
- § 9 amended, 1997, 164 § 92; **section amended**, 1998, 194 § 144.
- § 15, last sentence stricken out and two sentences inserted, 1998, 410 § 1.
- § 20, last paragraph revised, 1997, 210 § 12; **section amended**, 1998, 220 § 6.
- § 22, paragraph (g) revised, 1998, 64 § 58.
- § 22H added, 1997, 233.
- § 24, subdivision (1), paragraph (a), subparagraph (1), second paragraph revised, 1997, 43 § 79; subdivision (2), paragraph (a), paragraph added, 1997, 43 § 80; **section amended**, 1998, 161 § 317. (See 1997, 43 § 311.)
- § 24P revised, 1998, 220 § 7.
- § 26A revised, 1998, 272.
- § 32E½ amended, 1998, 161 § 318.
- § 33 amended, 1997, 164 § 93.
- § 40H amended, 1997, 164 § 94.
- § 49E amended, 1998, 463 § 71.

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CHAPTER 90B - Motorboats, Other Vessels and Recreational vehicles. (Former title- Motorboats and Other Vessels.) (Title revised, 1998, 463 § 72.)

- § 8 amended, 1998, 161 § 319; **section amended**, 1998, 463 § 73.
- § 20, definition of "Snow vehicle" revised, 1998, 75 § 3.
- § 26, paragraph inserted after fourth paragraph, 1998, 362.

CHAPTER 90C - Procedure against Violators of Motor Vehicle Laws.

- § 1 amended, 1997, 164 § 95.

CHAPTER 90D - Motor Vehicle Certificate of Title.

- § 20C amended, 1998, 161 § 320.

CHAPTER 90E - Bikeways.

CHAPTER 90F - Uniform Operation of Commercial Motor Vehicles Act.
(New chapter inserted, 1990, 246 § 2.)

CHAPTER 90G - Civil Infractions.
(New chapter inserted, 1992, 133 § 452.) (See 1992, 133 § 598.)
(Chapter repealed, 1993, 182 § 8.)

CHAPTER 90H - Gateway Roads Program.
(New chapter inserted, 1994, 273 § 26.)

§ 3 amended, 1998, 161 § 321.

CHAPTER 91 - Waterways.

CHAPTER 91A - Port of Boston Commission.
(Former title, Port of Boston Authority.)

CHAPTER 92 - Metropolitan Sewers, Water and Parks.

§ 37, paragraph inserted after first paragraph, 1997, 43 § 81. (See 1997, 43 § 311.)

§ 43 amended, 1997, 164 § 96.

§ 44 amended, 1997, 164 § 97.

§ 50 amended, 1997, 164 § 98.

§ 51 amended, 1997, 164 § 99.

§ 67 amended, 1997, 164 § 100.

§ 68 amended, 1997, 164 § 101.

§ 113A, sentence added, 1998, 319 § 8. (See 1998, 319 § 45.)

CHAPTER 92A - Commonwealth Zoological Corporation
(New chapter inserted, 1991, 6 § 24.) (See 1991, 6 § 58.)

CHAPTER 92B - Commonwealth Zoological Corporation.
(New chapter inserted, 1992, 286 § 165.)

§ 4 amended, 1998, 161 § 322.

CHAPTER 93 - Regulation of Trade and Certain Enterprises.

§ 12 amended, 1998, 463 § 74.

§ 14E amended, 1998, 463 §§ 75, 76.

§ 14K revised, 1998, 463 § 77.

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- § 21A amended, 1998, 161 § 323.
- § 24 amended, 1997, 164 § 102.
- § 75 amended, 1998, 161 § 324.
- § 105 amended, 1998, 161 § 325; **section amended**, 1998, 463 § 78.
- § 108 added, 1998, 294 § 1; **section stricken out**, 1998, 463 § 79.
- § 108 added, 1998, 327 § 1.
- § 109 added, 1998, 327 § 1.
- § 110 added, 1998, 327 § 1.
- § 111 added, 1998, 327 § 1.
- § 112 added, 1998, 327 § 1.
- § 113 added, 1998, 327 § 1.
- § 114 added, 1998, 463 § 80.

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CHAPTER 93B - Regulation of Business Practices Between Motor Vehicle Manufactures, Distributors and Dealers.

CHAPTER 93C - Protection of Consumers against Careless and Erroneous Billings.

CHAPTER 93D - Control of Outdoor Advertising Adjacent to the Interstate and Primary Systems.

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- § 9F amended, 1998, 161 § 326.
- § 10C amended, 1998, 463 § 81.
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- § 85 amended, 1998, 161 § 327.
- § 86 amended, 1998, 161 § 328.
- § 92B amended, 1998, 295 § 3.
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§ 181, last paragraph revised, 1998, 295 § 9.
§ 183 amended, 1998, 295 § 10.
§ 184B amended, 1998, 295 § 11.
§ 184E, first paragraph revised, 1998, 295 § 12.
§ 295A, paragraphs (3), (4) and (5) revised, 1998, 161 § 330.
§ 295H amended, 1998, 295 § 13.
§ 295K amended, 1998, 295 § 14.
§ 299 amended, 1998, 295 § 15.
§ 303F amended, 1998, 295 § 16.
§ 303G amended, 1998, 161 § 331.
§ 314, definition of “Director” and “Secretary” revised, 1998, 161 § 332.
§ 315 amended, 1998, 161 § 333.
§ 316 amended, 1998, 161 § 334.
§ 317 amended, 1998, 161 §§ 335, 336.
§ 325 amended, 1998, 194 § 145.

CHAPTER 94A - Milk Control.

CHAPTER 94B - Hazardous Substances.

CHAPTER 94C - Controlled Substances Act.

§ 1, clause (c) added, 1997, 55 § 1; def. Of “Drug paraphernalia” revised, 1998, 50; definition of “Written prescription” revised, 1998, 104 § 1.
§ 7, paragraph (h) added, 1997, 55 § 2.
§ 9, paragraph (a) and (b) revised, 1997, 55 § 3.
§ 18 amended, 1998, 104 § 2.
§ 20, subsection (c), sentence added, 1998, 104 § 3.
§ 23, subsection (a) amended, 1998, 104 § 4; subsection (d) amended, 1998, 104 § 5; subsection (g) revised, 1998, 104 § 6.
§ 24 revised, 1998, 104 § 7.
§ 31, Class A, paragraph (c) added, 1998, 232 § 1.
§ 32J amended, 1998, 194 § 146.
§ 47 amended, 1998, 194 § 147.

CHAPTER 94D - Controlled Substances Therapeutic Research Act.
(New chapter inserted, 1991, 480 § 1.)

CHAPTER 95 - Measuring of Leather.

CHAPTER 96 - Measurement of Lumber.

CHAPTER 97 - Surveying of Land.

CHAPTER 98 - Weights and Measures.

§ 1 amended, 1998, 161 § 337; definition of “Deputy” revised, 1998, 161 § 338; 1998, 295 § 17; definitions of “Inspector” and “Sealer” revised, definition of “Committee” inserted, 1998, 295 § 17.

§ 3 amended, 1998, 161 § 339.

§ 10 amended, 1998, 161 § 340.

§ 11 amended, 1998, 161 § 341.

§ 12 amended, 1998, 161 § 342.

§ 13 amended, 1998, 161 § 343.

§ 14 amended, 1998, 161 § 344.

§ 14A amended, 1998, 161 § 345.

§ 15 amended, 1998, 161 §§ 346, 347.

§ 18 amended, 1998, 161 § 348.

§ 19 amended, 1998, 161 § 349; 1998, 295 §§ 18, 19.

§ 20 amended, 1998, 161 § 350.

§ 22 amended, 1998, 161 § 351.

§ 23 amended, 1998, 161 § 352.

§ 24 amended, 1998, 161, 353; 1998, 295 § 20.

§ 25 amended, 1998, 295 § 21.

§ 26 amended, 1998, 295 § 22.

§ 28A amended, 1998, 161 § 354.

§ 29 amended, 1998, 161 §§ 355, 356; two paragraphs added, 1998, 295 § 23.

§ 29A added, 1998, 295 § 24.

§ 31 amended, 1998, 161 § 357; **section amended**, 1998, 295 § 25.

§ 32 amended, 1998, 161 § 358.

§ 33 amended, 1998, 161 § 359.

§ 33A amended, 1998, 161 § 360.

§ 34 amended, 1998, 295 § 26; five sentence added, 1998, 295 § 27.

§ 35 revised, 1998, 295 § 28.

§ 36, five sentences added, 1998, 295 § 29.

§ 36A added, 1998, 295 § 30.

§ 37 amended, 1998, 161 § 361; **section revised**, 1998, 295 § 31.

§ 38 amended, 1998, 161 § 362.

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- § 41 amended, 1998, 161 § 363.
- § 42 amended, 1998, 295 § 32.
- § 44 amended, 1998, 161 § 364.
- § 45 amended, 1998, 161 § 365; **section amended**, 1998, 295 § 33.
- § 46 amended, 1998, 161 § 366.
- § 46A amended, 1998, 161 § 367.
- § 47 amended, 1998, 161 § 368.
- § 48 amended, 1998, 295 § 34.
- § 55 amended, 1998, 295 § 35.
- § 56, first paragraph, introductory paragraph revised, 1998, 295 § 36; subparagraphs (n), (o) and (p) added, 1998, 295 § 37.
- § 56A revised, 1998, 295 § 38.
- § 56B amended, 1998, 295 § 39.
- § 56C amended, 1998, 295 § 40.
- § 56D amend, 1998, 161 § 369; first paragraph stricken out and two paragraphs inserted, 1998, 295 § 41.
- § 57 revised, 1998, 161 § 368; caption preceding section revised, 1998, 161 § 371; **section revised**, 1998, 295 § 42.

CHAPTER 99 - The Metric System of Weights and Measures.

- § 1 amended, 1998, 161 § 372.
- § 3 amended, 1998, 161 § 373.
- § 4 amended, 1998, 161 § 374.

CHAPTER 100 - Auctioneers.

- § 1, definition of "Director" revised, 1998, 161 § 375.
- § 3 amended, 1998, 161 §§ 376, 377.
- § 3A amended, 1998, 161 § 378; amended, 1998, 463 § 83.
- § 4 amended, 1998, 161 § 379.
- § 5 amended, 1998, 161 § 380.
- § 6 amended, 1998, 161 § 381.
- § 7 amended, 1998, 161 § 382.
- § 9 amended, 1998, 161 § 383.

CHAPTER 100A - Motor Vehicle Damage Repair Shops.

(New chapter inserted, 1988, 273 § 32.) (See 1988, 273 § 77.)

- § 1, definition of "Director" revised, 1998, 161 § 384.
- § 2 amended, 1998, 161 §§ 385, 386.
- § 2A amended, 1998, 161 § 387.

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§ 3 amended, 1998, 161 § 388.
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CHAPTER 101 - Transient Vendors, Hawkers and Peddlers.

§ 1, definition of "Director" revised, 1998, 161 § 394.
§ 3 amended, 1998, 161 § 395.
§ 4 amended, 1998, 161 § 396.
§ 6A amended, 1998, 161 §§ 397, 398.
§ 7 amended, 1998, 161 § 399.
§ 11 amended, 1998, 161 § 400.
§ 12 amended, 1998, 161 § 401.
§ 17 revised, 1998, 194 § 148.
§ 22 amended, 1998, 161 § 402; **section revised**, 1998, 194 § 149.
§ 24 amended, 1998, 161 § 403.
§ 26 amended, 1998, 161 § 404; first and second sentences revised, 1998, 194 § 150.
§ 27 amended, 1998, 161 § 405.
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CHAPTER 104 - Agents, Consignees and Factors.

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CHAPTER 105 - Public Warehouses.

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CHAPTER 106 - Uniform Commercial Code.

§ 1-105, subsection (2) amended, 1997, 224 § 1.
§ 1-201, subsection (20) revised, 1998, 24 § 1; subsection (24) revised, 1998, 24 § 2;
subsection (43) revised, 1998, 24 § 3; **section amended**, 1998, 24 § 4.

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§ 1-207, revised, 1998, 24 § 5.

§ 2-103, subsection (3) amended, 1998, 24 § 6.

§ 2-511, subsection (3) amended, 1998, 24 § 7.

§ 2-512, subsection (1), clause (b) amended, 1997, 224 § 2.

§ 2A-507 amended, 1998, 463 § 84.

Article 3 revised, 1998, 24 § 8.

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Article 5 revised, 1997, 224 § 3.

§ 5-103, subsection (3) amended, 1998, 24 § 9.

§ 9-103, subsection (1) amended, 1997, 224 § 4; paragraph (a) amended, 1997, 224 § 4; subsection (6) sentence added in paragraph (f); 1997, 224 § 6.

§ 9-104 amended, 1997, 224 § 7.

§ 9-105, subsection (3), definition of “Note” stricken out and definitions of “Letter of credit”, “Note”, and “Proceeds of a letter of credit” inserted, 1997 224 § 8.

§ 9-106 amended, 1997, 224 § 9.

§ 9-109, clause (3) revised, 1997, 224 § 10.

§ 9-203 amended, 1998, 24 § 10.

§ 9-206 amended, 1998, 24 § 11.

§ 9-302 amended, 1998, 24 § 12.

§ 9-304, heading stricken out and new heading inserted, 1997, 224 § 11; sentence inserted after first sentence, 1997, 224 § 12.

§ 9-305, first sentence stricken out and two sentences inserted, 1997, 224 § 13.

CHAPTER 107 - Money and Registration, Issuance and Redemption of Bonds and other Securities, Facsimile Signatures.
(Former title, Money and Negotiable Instruments.)

CHAPTER 107A - Assignments of Accounts Receivable

CHAPTER 108 - Criminal Offences Relative to Bills of Lading.
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CHAPTER 110 - Labels, Trade Marks, Names and Registration Thereof.

CHAPTER 110A - Uniform Securities Act.

CHAPTER 110B - Registration and Protection of Trademarks.

CHAPTER 110C - Regulation of Take-over Bids in the Acquisition of Corporations.

§ 8 amended, 1997, 164 § 103.

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CHAPTER 110E - Regulation of Control Share Acquisitions of Foreign Corporations.

(New chapter inserted, 1987, 272 § 2.)

CHAPTER 110F - Business Combination with Interested Share-holders.

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§ 2D, definition of "Seropositive" revised, 1997, 19 § 13.

§ 4H amended, 1998, 161 § 408.

§ 4K amended, 1997, 19 § 14.

§ 5J amended, 1997, 19 § 15.

§ 5K, subsection (E) added, 1997, 164 § 104.

§ 5N amended, 1998, 161 § 409.

§ 20 amended, 1998, 161 § 410.

§ 24B revised, 1998, 64 § 59.

§ 24F **repealed**, 1997, 170 § 4. (See 199, 170 § 46.)

§ 24G amended, 1997, 170 §§ 5, 6; second paragraph, clause (1) revised, 1997, 170 § 7; clauses. (4) and (5) stricken out, five clauses inserted, 1997, 170 § 8; **section amended**, 1997, 170 §§ 9, 10. (See 1997, 170 § 46.)

§24H added, 1997, 170 § 11. (See 1997, 170 § 46.)

§24I added, 1997, 170 § 11. (See 1997, 170 § 46.)

§24J added, 1997, 170 § 11. (See 1997, 170 § 46.)

§ 25C amended, 1997, 19 § 16; **section amended**, 1998, 161 § 411.

§ 25D amended, 1997, 19 § 17.

§ 27B amended, 1997, 19 § 18.

§ 31C amended, 1997, 19 § 19.

§ 51 amended, 1998, 161 §§ 412, 413.

§ 62M amended, 1998, 161 § 414.

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- § 67C amended, 1998, 161 § 415.
- § 67F revised, 1998, 243 § 2.
- § 69H amended, 1998, 161 § 416.
- § 70A amended, 1998, 463 § 85.
- § 70E amended, 1998, 194 § 151.
- § 72F revised, 1998, 336 § 4.
- § 72G revised, 1998, 336 § 4.
- § 72H revised, 1998, 336 § 4.
- § 72I revised, 1998, 336 § 4.
- § 72J revised, 1998, 336 § 4.
- § 72K revised, 1998, 336 § 4.
- § 72L revised, 1998, 336 § 4.
- § 72L½ added, 1998, 336 § 4.
- § 72N amended, 1998, 161 § 417.
- § 72P amended, 1998, 161 § 418.
- § 72Q amended, 1998, 161 § 419.
- § 72Y amended, 1998, 161 § 420.
- § 78 amended, 1998, 161 § 421.
- § 78A amended, 1998, 161 § 422.
- § 79 amended, 1998, 161 § 423.
- § 80, first paragraph, first two sentences revised, 1998, 161 § 424; sixth sentence revised, 1998, 161 § 425.
- § 82, sixth sentence revised, 1998, 161 § 426.
- § 88 amended, 1998, 161 § 427.
- § 116A amended, 1998, 161 § 428.
- § 127B½, paragraph added, 1998, 194 § 152; **section amended**, 1998, 463 §§ 86, 87.
- § 142J, third and fourth paragraphs stricken out, 1997, 210 § 13.
- § 142M, first paragraph revised, 1997, 43 § 82; **section revised**, 1997, 210 § 14; **section amended**, 1998, 161 § 429; **section amended**, 1998, 194 § 153. (See 1997, 43 § 311.)
- § 142N added, 1997, 164 § 105.
- § 150A amended, 1997, 19 § 20.
- § 150A½ amended, 1997, 19 § 21.
- § 170 amended, 1997, 19 § 22.
- § 184C amended, 1998, 173.
- § 189A amended, 1997, 19 § 23.
- § 192A amended, 1997, 19 § 24; **section amended**, 1998, 161 § 430.
- § 197 amended, 1997, 19 § 25; **section amended**, 1998, 161 § 431.
- § 197B amended, 1997, 19 § 26; subsection (b), paragraph (3) amended, 1998, 161 § 432; **section amended**, 1998, 161 § 433; subsection (e) revised, 1998, 161 § 434.
- § 197C amended, 1997, 19 §§ 27, 28.

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§ 197E subsection (e) revised, 1998, 161 § 435; **section amended**, 1998, 161 §§ 436, 437, 438.

§ 198 amended, 1997, 19 § 29.

§ 200 **repealed**, 1998, 180 § 4.

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CHAPTER 111B - Alcoholism.

CHAPTER 111C - Emergency Medical Care.

§ 14 amended, 1998, 137 § 1.

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§ 8 amended, 1997, 19 § 30.

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§ 3 amended, 1998, 161 § 439.

§ 18 amended, 1997, 19 § 31.

CHAPTER 111F - Hazardous Substances Disclosure by Employers.

§ 3 amended, 1997, 19 § 32.

CHAPTER 111G - Early Childhood Intervention Services.

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§ 4 amended, 1998, 194 § 154.

§ 9 amended, 1998, 194 § 155.

§ 11 amended, 1997, 19 §§ 33, 34.

§ 20 amended, 1998, 194 § 156.

§ 22 amended, 1998, 194 §§ 157, 158; **section amended**, 1998, 463 § 88.

§ 23 amended, 1998, 194 § 159.

§ 27 amended, 1998, 194 § 160.

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§ 37 amended, 1998, 194 § 163.

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(New chapter inserted, 1992, 414 § 3.)

CHAPTER 112 - Registration of Certain Professions and Occupations.

§ 5F amended, 1997, 19 § 35.

§ 7 amended, 1998, 463 § 89.

§ 12A, sentence added, 1998, 180 § 5; last sentence revised, 1998, 358 § 2. (See 1998, 358 § 12.)

§ 12D amended, 1998, 161 § 440.

§ 12G amended, 1998, 463 § 90.

§ 12R amended, 1997, 19 § 36.

§ 12V revised, 1998, 137 § 2.

§ 23E amended, 1997, 19 § 37.

§ 24B amended, 1997, 19 §§ 38, 39.

§ 43A, definition of "Dental hygienist" revised, 1997, 19 § 40.

§ 53 amended, 1997, 19 § 41.

§ 60N amended, 1997, 19 § 42.

§ 61 amended, 1998, 161 §§ 441, 442.

§ 66 revised, 1997, 55 § 4.

§ 66B added, 1997, 55 § 5.

§ 68B added, 1997, 55 § 6.

§ 81J amended, 1997, 19 § 43.

§ 81P amended, 1997, 19 § 44.

§ 81R amended, 1997, 164 § 106.

§ 87A ½, sixth paragraph revised, 1998, 62 § 1; seventh paragraph revised, 1998, 62 § 2.
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§ 87C amended, 1998, 194 §§ 164, 165.

§ 87C ½ amended, 1997, 19 § 45.

§ 87D amended, 1997, 19 § 46.

§ 87DD amended, 1997, 19 § 47.

§ 87EE amended, 1997, 19 § 48.

§ 87QQ amended, 1997, 19 § 49.

§ 87XX amended, 1998, 393.

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§ 95 amended, 1998, 463 § 91.

§ 97 amended, 1998, 463 § 92.

§ 123, clauses (a), (b) and (c) stricken out and clauses (a) and (b) inserted, 1998, 207.

§ 158, clause (I) stricken out, 1998, 114 § 1.

§ 161 **repealed**, 1998, 114 § 2.

§ 175 amended, 1998, 161 §§ 443, 444.

§ 196 added, 1998, 321 § 2.

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§ 197A added, 1998, 321 § 2.

§ 198 added, 1998, 321 § 2.

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CHAPTER 113 - Promotion of Anatomical Science.

CHAPTER 114 - Cemeteries and Burials.

§ 2 revised, 1997, 191 § 1.

§ 15, two sentences inserted after third sentence, 1997, 191 § 2.

§ 43D amended, 1997, 219.

§ 43M, sentence inserted after third sentence, 1997, 191 § 3.

§ 45 amended, 1997, 19 § 51; **section amended**, 1997, 191 § 4.

CHAPTER 115 - Veteran's Benefits.

(Former title, State and Military Aid, Soldier's Relief, etc.)

§ 5 amended, 1998, 463 § 93.

§ 6A amended, 1997, 43 § 84; **section amended**, 1998, 194 §§ 166, 167; **section amended**, 1998, 463 § 94. (See 1997, 43 § 311.)

§ 6B amended, 1997, 43 §§ 85, 86; paragraph added, 1997, 43 § 87. (See 1997, 43 § 311.)

§ 7 amended, 1998, 194 § 168.

§ 8 amended, 1998, 194 § 169.

§ 9, after fifth sentence, sentence inserted, 1998, 194 § 170.

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CHAPTER 116 - Settlement.

CHAPTER 117 - Support by the Commonwealth.

(Former title, Support by the Cities and Towns.)

CHAPTER 117A - Support by the Commonwealth.

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§ 2 amended, 1998, 161 § 445.

CHAPTER 118 - Aid to Families with Dependent Children.

(Former title, Aid to Dependent Children.)

§ 3 amended, 1998, 161 § 446.

CHAPTER 118A - Assistance to the Aged and Disabled.
(Former title, Old Age Assistance and Medical Assistance for the Aged.)

CHAPTER 118B - The Merit System in the Administration of Aid to Families with Dependent Children and Old Age Assistance.

CHAPTER 118C - Coverage of Certain Employees under the Federal Social Security Act.

CHAPTER 118D - Assistance to Persons who are Disabled.

CHAPTER 118E - Medical Care and Assistance.
(Chapter revised, 1993, 161 § 17.)

- § 8, definition of "Title XXI" added, 1997, 170 § 12.
- § 9 amended, 1997, 88 § 26; second paragraph, sentence added, 1998, 487 § 3. (See 1997, 88 § 114; 1998, 487 § 5.)
- § 9A, subsection (2), clause (b) revised, 1997, 170 § 13; clauses (c) and (d) revised, 1997, 43 § 88; 170 § 14; clause (e) revised, 1997, 88 § 27; clause (h) revised, 1997, 43 § 89; subsection. (4) revised, 1997, 43 § 90; paragraph (8), first sentence revised, 1997, 43 § 91; **section amended**, 1997, 170 §§ 15, 16. (See 1997, 43 § 311; 88 § 114.)
- § 9B, subsection (8), first sentence revised, 1997, 43 § 92. (See 1997, 43 § 311.)
- § 9C added, 1997, 47 § 10. (See 1997, 47 § 37.)
- § 10 amended, 1997, 170 § 17.
- § 10B added, 1998, 243 § 3.
- § 12 amended, 1998, 161 § 447.
- § 14 amended, 1998, 161 § 448.
- § 16 amended, 1997, 88 § 28. (See 1997, 88 § 114.)
- § 16A amended, 1997, 88 § 29. (See 1997, 88 § 114.)
- § 16A½ added, 1998, 194 § 171.
- § 16B, fifth paragraph stricken out, two paragraphs inserted, 1997, 1 § 3; **section amended**, 1997, 170 §§ 18, 19; definition of "Pharmacy assistance" revised, 1997, 170 § 20; fifth paragraph stricken out and two paragraphs inserted, 1997, 170 § 21; ninth paragraph, second sentence revised, 1997, 170 § 22; fifth sentence revised, 1997, 170 § 23; **section amended**, 1997, 170 §§ 24, 25; fourth paragraph, sentence inserted after first sentence, 1998, 194 § 172; **section amended**, 1998, 463 § 95. (See 1997, 1 § 7.)
- § 16C added, 1997, 170 § 26; subsection (4), second sentence stricken out and four sentences inserted, 1998, 194 § 173.
- § 16D added, 1998, 194 § 174.
- § 30, paragraph (a), second sentence revised, 1997, 43 § 93. (See 1997, 43 § 311.)
- § 31, subsection (d) added, 1997, 43 § 94. (See 1997, 43 § 311.)

CHAPTER 118E - continued

- § 32, subsections (b) to (e), inclusive, stricken out and subsection (b) to (j) inclusive, inserted, 1997, 43 § 95. (See 1997, 43 § 311.)
- § 33 revised, 1997, 43 § 96. (See 1997, 43 § 311.)
- § 36 amended, 1998, 194 § 175.

CHAPTER 118F - Department of Medical Security.

(New chapter added, 1988, 23 § 45.) (See 1988, 23 § 45.)

(Chapter repealed, 1996, 151 § 274.) (See 1996, 151 § 690.)

CHAPTER 118G - Health Care Finance and Policy.

(New chapter added, 1996, 151 § 275.) (See 1996, 151 § 690.)

- § 1, definitions of "Ambulatory surgical center" and "Ambulatory surgical center services" inserted, 1997, 47 § 11; definitions of "Pool" and "Payments subject to surcharge" inserted, 1997, 47 § 12; definition of "Surcharge payor" inserted, 1998, 47 § 13; definition of "Gross inpatient service revenue" revised, 1998, 463 § 96; **section amended**, 1998, 463 § 97. (See 1997, 47 § 37.)
- § 2, second paragraph, clause (b), last sentence revised, 1997, 43 § 97. (See 1997, 43 § 311.)
- § 7 amended, 1998, 463 §§ 98, 99.
- § 18 revised, 1997, 47 § 14; subsection (c), fourth sentence revised, 1998, 463 § 100; subsection (o) added, 1997, 170 § 27; fourth sentence amended, 1998, 319 § 9. (See 1997, 47 § 37; 170 § 45; 1998, 319 § 45.)

CHAPTER 119 - Protection and Care of Children, and Proceedings against Them.

- § 23, first paragraph, paragraph A, two paragraphs added, 1997, 43 § 98. (See 1997, 43 § 311.)
- § 26, clause (4) of second paragraph, sentence added, 1998, 14 § 1; after second paragraph, four paragraphs inserted, 1997, 43 § 99. (See 1997, 43 § 311.)
- § 28, subsection (b) amended, 1997, 19 § 52; **section amended**, 1998, 64 §§ 60, 61; subsection (b) revised, 1998, 64 § 62.
- § 33B revised, 1997, 43 § 100. (See 1997, 43 § 311.)
- § 35, sentence added, 1997, 77 § 1.
- § 39D amended, 1998, 65.
- § 51A amended, 1997, 197.
- § 51B amended, 1998, 64 § 63.
- § 51D amended, 1998, 161 § 449.
- § 55B amended, 1998, 194 § 176.
- § 58 amended, 1998, 194 § 177.
- § 72, subsection (a), first paragraph revised, 1998, 98 § 1; subsection (b) revised, 1998, 98 § 2.

CHAPTER 119A - Child Support Enforcement.

§ 1 amended, 1998, 64 §§ 64, 65, 66; **section amended**, 1998, 463 § 101.

§ 1A added, 1998, 64 § 67.

§ 2 amended, 1997, 19 § 53; **section revised**, 1998, 64 § 68.

§ 3, first sentence revised, 1998, 64 § 69; **section amended**, 1998, 64 § 70; second paragraph stricken out and two paragraphs inserted, 1998, 64 § 71; clauses (2) and (3) revised, 1998, 64 § 72; clause (4) revised, 1998, 64 § 73; **section amended**, 1998, 64 §§ 74, 75; sentence added, 1998, 64 § 76; subsection (c) revised, 1998, 463 § 102.

§ 3A added, 1998, 64 § 77.

§ 3B added, 1998, 64 § 77.

§ 4 amended, 1997, 19 § 54; **section amended**, 1998, 64 § 78; third to eighth sentences revised, 1998, 64 § 79.

§ 5 amended, 1997, 19 § 55; first paragraph revised, 1998, 64 § 80; second paragraph stricken out and two paragraphs inserted, 1998, 64 § 81.

§ 5A added, 1998, 64 § 82.

§ 5B added, 1998, 64 § 82.

§ 6 amended, 1998, 64 §§ 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95.

§ 6A added, 1998, 64 § 96.

§ 7 amended, 1998, 64 § 97.

§ 8 amended, 1998, 64 §§ 98, 99.

§ 11 amended, 1998, 161 § 450.

§ 12 amended, 1998, 64 § 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111; sixth and seventh sentences revised, 1998, 64 § 112; **section amended**, 1998, 64 §§ 113, 114; subsection (b), first sentence of the second paragraph stricken out, 1998, 64 § 115; **section amended**, 1998, 64 §§ 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 133A; sentence added, 1998, 64 § 134; subsection (d), first four sentences stricken out and three sentences inserted, 1998, 64 § 135; sentence added, 1998, 64 § 136; **section amended**, 1998, 64 §§ 137, 138; subsection (e), second paragraph revised, 1998, 64 § 139; **section amended**, 1998, 64 §§ 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150; subsection (f), paragraphs (2) and (3) revised, 1998, 64 § 151; paragraphs (5), (6) and (7) revised, 1998, 64 § 153; subsection (g) stricken out, 1998, 64 § 154; subsection (h) and (i) revised, 1998, 64 § 155; **section amended**, 1998, 64 §§ 156, 157, 158, 159; subsection (n) stricken out, 1998, 64 § 160; **section amended**, 1998, 463 § 103, 104.

§ 13 amended, 1998, 64 §§ 161, 162.

§ 14 amended, 1998, 64 § 163; subsection (a), last sentence stricken out, 1998, 64 § 164; **section amended**, 1998, 64 §§ 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175.

§ 15, seven sentences inserted before the first sentence, 1998, 64 § 176.

§ 16 revised, 1998, 64 § 177.

§ 17 amended, 1998, 64 § 178; sentence added, 1998, 64 § 178.

CHAPTER 120 - Department of Youth Services and Massachusetts Training Schools.
(Former title, Youth Service Board and Massachusetts Training Schools.)

CHAPTER 121 - Powers and Duties of the Department of Public Welfare, and the Massachusetts Hospital School.

CHAPTER 121A - Urban Redevelopment Corporations.

- § 1 amended, 1998, 161 § 451.
- § 9 amended, 1998, 161 § 452.
- § 18C amended, 1998, 161 § 453.

CHAPTER 121B - Housing and Urban Renewal.

- § 1 amended, 1998, 161 § 454.
- § 12 amended, 1998, 161 § 455.
- § 26 amended, 1998, 161 § 456.
- § 32, first paragraph, third sentence revised, 1998, 194 § 178; paragraph inserted after first paragraph, 1998, 194 § 179.
- § 34B amended, 1997, 19 § 56; **section amended**, 1998, 161 § 457.
- § 40, subsection (e), sentence inserted after second sentence, 1997, 170 § 28.
- § 42 amended, 1998, 161 § 458.
- § 43A amended, 1998, 161 § 459.
- § 57 amended, 1997, 43 § 101. (See 1997, 43 § 311.)
- § 59 amended, 1998, 161 § 460.

CHAPTER 121C - Economic Development and Industrial Corporations.

- § 1, paragraph (2A) inserted, 1998, 161 § 461; **section amended**, 1998, 161 §§ 462, 463; paragraph (9) stricken out, 1998, 161 § 464.
- § 3 amended, 1998, 161 § 465.
- § 4 amended, 1998, 161 § 466.
- § 5 amended, 1998, 161 § 467.
- § 6 amended, 1998, 161 §§ 468, 469.
- § 10 amended, 1998, 161 § 470.

CHAPTER 122 - Tewksbury Hospital.
(Former title, Tewksbury State Hospital and Infirmary.)

- § 14 amended, 1998, 161 § 471.

CHAPTER 123 - Treatment and Commitment of Mentally Ill and Mentally Retarded Persons.

§ 2 amended, 1997, 19 § 57.

§ 23, first two paragraphs stricken out, five paragraphs inserted, 1997, 166 § 1; **section amended**, 1997 166 § 2 .

§ 32 amended, 1998, 161 § 472.

§ 33 amended, 1998, 161 § 473.

CHAPTER 123A - Care, Treatment and Rehabilitation of Sexually Dangerous Persons. (Former title, Care, Treatment and Rehabilitation of Sexual Offenders and Victims of such Offenders.)

§ 2 amended, 1997, 19 § 57.

CHAPTER 123B - Mental Health.

§ 16 amended, 1998, 161 § 474.

CHAPTER 124 - Powers and Duties of the Department of Correction.

§ 1 amended, 1998, 161 § 475.

**CHAPTER 125 - Correctional Institutions of the Commonwealth.
(Former title, Penal and Reformatory Institutions of the Commonwealth.)**

CHAPTER 126 - Jails, Houses of Correction and Reformation, and County Industrial Farms.

CHAPTER 127 - Officers and Inmates of Penal and Reformatory Institutions, Paroles and Pardons.

§ 49, first paragraph amended, 1998, 308 § 1; sentence added, 1998, 308 § 2.

§ 130, sentence added, 1998, 64 § 180.

§ 133A, last sentence stricken out, 1997, 217 § 1.

§ 133C added, 1997, 217 § 2.

CHAPTER 128 - Agriculture.

§ 38B added, 1997, 11 § 27; paragraph (d), first sentence revised, 1998, 194 § 180.

CHAPTER 128A - Horse and Dog Racing Meetings.

CHAPTER 128B - Conservation of Soil and Soil Resources and Prevention and Control of Erosion.

CHAPTER 128C - Simulcast Wagering of Horse and Dog Racing.
(New chapter inserted, 1992, 101 § 5.)

§ 2, fifth paragraph, fourth sentence revised, 1997, 19 § 58.

CHAPTER 129 - Livestock Disease Control.
(Former title, Animal Industry.)

CHAPTER 129A - Marine Fish and Fisheries, Inland Fish and Fisheries, Birds and Mammals, General Provisions.

CHAPTER 130 - Marine Fish and Fisheries.
(Former title, Marine Fish and Fisheries Including Crustacean and Shellfish.)

§ 2 amended, 1998, 152 § 1; paragraph inserted after first paragraph, 1998, 184.

§ 41 revised, 1998, 152 § 2.

§ 41A revised, 1998, 152 § 3.

§ 44 amended, 1997, 140 § 1.

CHAPTER 131 - Inland Fisheries and Game and Other Natural Resources.
(Former title, Powers and Duties of the Division of Fisheries and Game.)

§ 4, clause (16) added, 1997, 43 § 102. (See 1997, 43 § 311.)

§ 11 amended, 1998, 180 § 6.

§ 14, paragraph inserted after fourth paragraph, 1998, 180 § 7.

§ 21, first sentence revised, 1997, 19 § 59. (See 1997, 19 § 127.)

§ 21A revised, 1997, 19 § 60. (See 1997, 19 § 127.)

§ 80A revised, 1997, 19 § 61. (See 1997, 19 § 127.)

CHAPTER 131A - Massachusetts Endangered Species Act.
(New chapter added, 1990, 408 § 4.) (See 1990, 408 § 5.)

CHAPTER 132 - Forestry.

§ 34A amended, 1997, 164 §§ 107, 108, 109, 110.

**CHAPTER 132A - State Recreation Areas outside of the Metropolitan Parks District.
(Former title, State Parks and Reservations outside of the
Metropolitan Parks District.)**

§ 11B amended, 1998, 161 § 476.

§ 16 amended, 1997, 164 § 111.

CHAPTER 132B - Massachusetts Pesticide Control Act.

CHAPTER 133 - Disposition of Old and Infirm Animals.

CHAPTER 134 - Lost Goods and Stray Beasts.

CHAPTER 135 - Unclaimed and Abandoned Property.

**CHAPTER 136 - Observance of a Common Day of Rest and Legal Holidays.
(Former title, Observance of the Lords Day and Legal Holidays.)**

§ 4, paragraph (8) stricken out, paragraphs (8) and (8A) inserted, 1998, 248 § 1.

§ 7 amended, 1998, 161 § 477.

§ 13 amended, 1998, 161 § 478.

§ 15 amended, 1998, 161 § 479.

CHAPTER 137 - Gaming.

**CHAPTER 138 - Alcoholic Liquors.
(Former title, Intoxicating Liquors and Certain Non-intoxicating
Beverages.)**

§ 1, definitions of “Pub brewer” and “Pub brewery” inserted, 1998, 113 § 1.

§ 12 amended, 1998, 113 § 2; thirteenth paragraph revised, 1998, 113 § 3.

§ 15, second paragraph, fourth and fifth sentences revised, 1998, 113 § 4.

§ 19A amended, 1998, 113 § 5.

§ 19B amended, 1997, 19 § 62; subsection (f) revised, 1998, 325.

§ 19D added, 1998, 113 § 6.

§ 21 amended, 1998, 113 § 7; **section amended**, 1998, 463 § 105.

§ 28 amended, 1998, 113 § 8.

§ 34 revised, 1998, 113 § 9.

§ 34A amended, 1998, 220 § 8.

§ 64A added, 1998, 54 § 1.

§ 64B added, 1998, 54 § 1.

§ 67, paragraph inserted after fifth paragraph, 1998, 54 § 2.

§ 70 amended, 1998, 113 § 10.

CHAPTER 139 - Common Nuisances.

CHAPTER 140 - Licenses.

- § 32B amended, 1998, 161 § 480.
- § 32L amended, 1998, 161 §§ 481, 482, 483.
- § 32P amended, 1998, 161 §§ 484, 485.
- § 32R amended, 1998, 161 § 486.
- § 46Q amended, 1998, 161 § 487.
- § 97 amended, 1998, 222 § 1.
- § 121 revised, 1998, 180 § 8.
- § 122 amended, 1998, 180 §§ 9, 10; sentence inserted after fourth sentence, 1998, 180 § 11.
- § 122B amended, 1998, 180 § 12; first paragraph, sentence added, 1998, 180 § 13.
- § 123 amended, 1998, 180 §§ 14, 15, 16, 17, 18; clauses Thirteenth to Twenty-first added, 1998, 180 § 19; **section amended**, 1998, 180 § 20; two paragraphs inserted after first paragraph, 1998, 180 § 21; **section amended**, 1998, 180 § 22; clause eighteenth, fifth sentence revised, 1998, 358 § 3. (See 1998, 358 § 12.)
- § 128 amended, 1998, 180 §§ 23, 24.
- § 128A amended, 1998, 180 §§ 25, 26, 27.
- § 128B amended, 1998, 180 § 28.
- § 129B revised, 1998, 180 § 29; paragraph (3) revised, 1998, 358 § 4. (See, 1998, 358 § 12.)
- § 129C, third paragraph, sentence added, 1998, 180 § 30; fourth paragraph, clause (j) revised, 1998, 180 § 31; clause (q) stricken out, 1998, 180 § 32; **section amended**, 1998, 180 § 33; paragraph inserted after sixth paragraph, 1998, 180 § 34; **section amended**, 1998, 180 § 35; fourth paragraph, clause (r) revised, 1998, 358 § 5. (See 1998, 358 § 12.)
- § 129D, paragraph inserted after first paragraph, 1998, 180 § 36; second paragraph, sentence added, 1998, 180 § 37.
- § 130 amended, 1998, 180 §§ 38, 39, 40.
- § 131 revised, 1998, 180 § 41; paragraph (d), introductory paragraph revised, 1998, 358 § 6; paragraph (j) revised, 1998, 358 § 7; paragraph (m), first sentence revised, 1998, 358 § 8; paragraph (o), introductory paragraph revised, 1998, 358 § 9. (See 1998, 358 § 12.)
- § 131½ added, 1998, 180 § 41; third sentence revised, 1998, 463 § 106.
- § 131¾ added, 1998, 180 § 41; first paragraph revised, 1998, 463 § 107.
- § 131A, first paragraph, sentence inserted after third sentence, 1998, 180 § 42; second paragraph revised, 1998, 180 § 43.
- § 131C revised, 180 § 44.
- § 131E, first sentence stricken out and paragraph inserted, 1998, 180 § 45.
- § 131F amended, 1998, 180 § 46.
- § 131K added, 1998, 180 § 47.
- § 131L added, 1998, 180 § 47.
- § 131M added, 1998, 180 § 47.
- § 131N added, 1998, 180 § 47.
- § 131O added, 1998, 180 § 47.

CHAPTER 140 - continued

§ 131P added, 1998, 180 § 47; subsection (a), first sentence revised, 1998, 463 § 108.

§ 137C amended, 1997, 43 § 103. (See 1997, 43 § 311.)

§ 181, first paragraph, two sentences added, 1998, 248 § 2.

§ 183A, last paragraph revised, 1998, 248 § 3.

CHAPTER 140A - Regulation of Certain Credit Transactions.

CHAPTER 140B - Control of Certain Junkyards.

CHAPTER 140C - Consumer Credit Cost Disclosure.
(Chapter repealed, 1981, 733 § 1.)

CHAPTER 140D - Consumer Credit Cost Disclosure.
(New chapter inserted, 1981, 733 § 2.)

CHAPTER 140E - Consumer Account Disclosure.

CHAPTER 141 - Supervision of Electricians.

§ 7 amended, 1997, 164 § 112.

CHAPTER 142 - Supervision of Plumbing.

CHAPTER 142A - Regulation of Home Improvement Contractors.
(New chapter inserted, 1991, 453.)

§ 1 “definition of “Administrator” inserted, 1998, 161 § 488; definition of “Director” inserted, 1998, 161 § 489; definition of “Director” stricken out, 1998, 161 § 490; **section amended**, 1998, 161 § 491; definition of “Secretary” stricken out, 1998, 161 § 492.

§ 2 amended, 1998, 161 §§ 493, 494.

§ 3 amended, 1998, 161 § 495.

§ 4 amended, 1998, 161 § 496.

§ 5 amended, 1998, 161 §§ 497, 498.

§ 7 amended, 1998, 161 § 499.

§ 9 amended, 1998, 161 § 500.

§ 10 amended, 1998, 161 § 501.

§ 11 amended, 1998, 161 § 502.

§ 12 amended, 1998, 161 § 503.

§ 13 amended, 1998, 161 § 504.

§ 14 amended, 1997, 164 § 113.

§ 15 amended, 1998, 161 § 505.

CHAPTER 142A - continued

§ 16 amended, 1998, 161 § 506.

§ 17 amended, 1998, 161 § 507.

§ 18 amended, 1998, 161 § 508.

§ 20 amended, 1998, 161 § 509.

CHAPTER 143 - Inspection and Regulation of, and Licenses for, Buildings, Elevators and Cinematographs.

§ 71C, four paragraphs added, 1998, 381.

§ 71S amended, 1997, 164 § 114.

CHAPTER 144 - Tenement Houses in Cities.

CHAPTER 145 - Tenement Houses in Towns.

CHAPTER 146 - Inspection of Boilers, Air Tanks, etc., Licenses of Engineers, Firemen, and Operators of Hoisting Machinery.

§ 46, first sentence stricken out and two sentences inserted, 1997, 205 § 1; paragraph added, 1997, 205 § 2.

§ 46A added, 1997, 205 § 5.

§ 48, first, second and third paragraphs stricken out and two paragraphs inserted, 1997, 205 § 3.

§ 49 revised, 1997, 205 § 4.

§ 64 amended, 1997, 205 § 6; sentence added, 1997, 205 § 7.

CHAPTER 147 - State and Other Police, and Certain Power and Duties of the Department of Public Safety.

§ 21A amended, 1997, 19 § 63; section amended, 1998, 463 § 109.

§ 57 amended, 1997, 164 § 115.

CHAPTER 148 - Fire Prevention.

§ 26E amended, 1997, 164 § 116.

CHAPTER 149 - Labor and Industries.

§ 8 amended, 1997, 19 § 64.

§ 11 amended, 1998, 161 § 510.

§ 20C amended, 1997, 19 §§ 65, 66.

§ 26 amended, 1998, 236 § 5.

CHAPTER 149 - continued

- § 27 amended, 1998, 236 § 6.
- § 27B, third paragraph amended, 1998, 463 § 110.
- § 27C revised, 1998, 236 § 7.
- § 27F amended, 1998, 236 § 8.
- § 27H, fourth and fifth sentences revised, 1997, 137; fifth sentence revised, 1998, 236 § 9.
- § 29A amended, 1997, 19 § 67.
- § 34B amended, 1997, 19 § 68.
- § 44A amended, 1997, 19 § 69; **section amended**, 1998, 194 § 182.
- § 44D amended, 1998, 194 § 183.
- § 44E amended, 1997, 19 § 70; **section amended**, 1998, 194 § 184.
- § 44F amended, 1997, 19 § 71; **section amended**, 1998, 463 §§ 111, 112.
- § 44J amended, 1997, 19 § 72; **section amended**, 1998, 194 § 185.
- § 44M amended, 1998, 161 § 511.
- § 50A amended, 1997, 19 § 73.
- § 52C, second paragraph revised, 1998, 231.
- § 52D added, 1998, 109 § 1.
- § 54 amended, 1997, 19 § 74.
- § 56 amended, 1997, 19 § 75.
- § 60 amended, 1997, 19 § 76.
- § 72 amended, 1997, 19 § 77.
- § 76 amended, 1997, 19 § 78.
- § 78 amended, 1998, 161 § 512.
- § 79 amended, 1997, 19 § 79.
- § 87 amended, 1997, 19 §§ 80, 81.
- § 90 amended, 1997, 19 § 82.
- § 108 amended, 1998, 161 § 513.
- § 132 amended, 1997, 19 § 83.
- § 142A amended, 1998, 161 §§ 514, 515.
- § 142B amended, 1998, 161 §§ 516, 517.
- § 142C amended, 1998, 161 § 518.
- § 142D amended, 1998, 161 §§ 519, 520.
- § 142E amended, 1998, 161 §§ 521, 522.
- § 142F amended, 1997, 19 § 84; amended, 1998, 161 § 523.
- § 145 amended, 1997, 19 § 85.
- § 148 amended, 1997, 164 § 117; last paragraph revised, 1998, 236 § 10.
- § 148A, paragraph added, 1998, 236 § 11.
- § 148B, last paragraph revised, 1998, 236 § 12.
- § 157A amended, 1998, 161 § 524.
- § 162 amended, 1997, 19 § 86.
- § 168A amended, 1998, 161 § 525.
- § 178B, paragraph added, 1998, 123.

CHAPTER 149 - continued

§ 184 amended, 1997, 19 §§ 87, 88, 89.

§ 185 amended, 1997, 19 § 90.

§ 186 added, 1998, 237 § 1.

CHAPTER 150 - Conciliation and Arbitration of Industrial Disputes.

§ 3 amended, 1997, 19 § 91.

CHAPTER 150A - Labor Relations.

§ 1 amended, 1997, 19 § 92.

§ 3A amended, 1998, 161 § 526.

CHAPTER 150B - Peaceful Settlement of Industrial Disputes Dangerous to Public Health and Safety.

CHAPTER 150C - Collective Bargaining Agreements to Arbitrate.

§ 16 amended, 1997, 19 § 93.

CHAPTER 150D - Registration of Labor Replacements of Strike Breakers.

CHAPTER 150E - Labor Relations; Public Employees.

§ 1 amended, 1997, 66 § 22.

§ 3 amended, 1997, 19 § 94.

§ 7 amended, 1997, 66 § 23; subsection (d) amended, 1998, 9; **section amended**, 1998, 194 §§ 186, 187.

CHAPTER 151 - Minimum Fair Wages.

(Former title, Minimum Fair Wages for Women and Minors.)

§ 1B amended, 1998, 236 § 13.

§ 9 amended, 1998, 161 § 527.

§ 17 amended, 1997, 19 § 95.

§ 19 amended, 1998, 236 §§ 14, 15, 16, 17, 18, 19.

CHAPTER 151A - Employment and Training.

(Title revised, 1990, 177 § 247. Former title, Employment Security.)

§ 1 amended, 1998, 463 § 113.

§ 8 amended, 1997, 19 §§ 96, 97.

CHAPTER 151A - continued

- § 14, paragraph (1) of subsection (i) amended, 1998, 175 §§ 19, 19A. (See 1998, 175 §§ 24, 26.)
- § 14A amended, 1997, 19 § 98.
- § 14G revised, 1998, 161 § 528; subsection (f), first sentence of first paragraph revised, 1998, 463 § 114.
- § 14I **repealed**, 1998, 194 § 188.
- § 14L added, 1998, 175 § 20; paragraph (a), first sentence revised, 1998, 194 § 189; **section repealed**, 1998, 175 § 20A. (See 1998, 175 §§ 24, 25.)
- § 29D amended, 1997, 19 § 99.
- § 29F added, 1997, 88 § 30. (See 1997, 88 § 114.)
- § 41 amended, 1997, 19 § 100.
- § 46, paragraph (f), sentence added, 1997, 43 § 104; **section amended**, 1997, 88 § 31. (See 1997, 43 § 311; 1997, 88 § 114.)
- § 58 amended, 1997, 19 §§ 101, 102.
- § 62A added, 1997, 88 § 32; subsection (e) stricken out, 1998, 101 § 1; subsection (g) added, 1998, 101 § 2. (See 1997, 32 § 114; 1998, 101 § 3.)
- § 66 amended, 1997, 19 § 103.
- § 71C amended, 1997, 19 § 104.
- § 71D amended, 1998, 161 §§ 529, 530, 531.
- § 71F amended, 1997, 164 § 118; **section amended**, 1998, 463 § 115.
- § 71I added, 1997, 164 § 119; subsection (a) revised, 1998, 481 § 4; **section repealed**, 1998, 481 § 5. (See 1998, 481 § 8.).

CHAPTER 151B - Unlawful Discrimination Because Of Race, Color, Religious Creed, National Origin, Ancestry Or Sex. (Former title, Unlawful Discrimination against Race, Color, Religious Creed, National Origin or Ancestry.)

- § 4, subsection 1A, first paragraph, sentence added, 1997, 2 § 2; **section amended**, 1997, 19 §§ 105, 106; **section amended**, 1998, 161 § 532. (See 1997, 2 § 4.)

CHAPTER 151C - Fair Education Practices.

CHAPTER 151D - Health, Welfare and Retirement Funds.

- § 3 amended, 1997, 19 §§ 107, 108.
- § 7 amended, 1998, 463 § 116.
- § 13 amended, 1997, 19 § 109.

CHAPTER 151E - Prohibition of Certain Discrimination by Business.

CHAPTER 152 - Workers' Compensation.
(Title changed, 1998 463 § 117)
(Former title: Workmen's Compensation.)

§ 1 amended, 1998, 161 §§ 533, 534.
§ 6 amended, 1998, 161 § 535.
§ 25A amended, 1998, 463 § 118
§ 25K amended, 1998, 161 § 536.
§ 30I amended, 1998, 161 § 537.
§ 31 amended, 1998, 161 § 538.
§ 46A amended, 1998, 64 §§ 181, 182, 183; second paragraph, two sentences added, 1998, 64 § 184; third paragraph revised, 1998, 64 § 185; **section amended**, 1998, 463 § 119.
§ 52B amended, 1998, 463 § 120.
§ 53A amended, 1998, 161 § 539.
§ 55 amended, 1998, 463 § 121.
§ 56 amended, 1998, 463 § 122.
§ 60C amended, 1998, 463 § 123.
§ 60D amended, 1998, 463 § 124.
§ 61 amended, 1998, 463 § 125.
§ 62 amended, 1998, 463 § 126.
§ 64 amended, 1998, 161 § 540.
§ 65 amended, 1998, 161 §§ 541, 542.
§ 65J amended, 1998, 161 § 543.
§ 69B amended, 1997, 43 §§ 106, 107; **section amended**, 1998, 463 § 127. (See 1997, 43 § 311.)

CHAPTER 153 - Liability of Employers to Employees for Injuries not resulting in Death.

CHAPTER 154 - Assignment of Wages.

CHAPTER 155 - General Provisions Relative to Corporations.

§ 4 amended, 1997, 164 § 120.
§ 5 amended, 1997, 164 § 121.
§ 5A amended, 1997, 164 § 122.

CHAPTER 156 - Business Corporations.

CHAPTER 156A - Professional Corporations.

CHAPTER 156B - Certain Business Corporations.

CHAPTER 156C - Limited Liability Company Act.

(New chapter inserted, 1995, 281 § 18.) (See 1995, 281 § 22.)

§ 66 revised, 1997, 19, § 110.

CHAPTER 157 - Co-operative Corporations.

CHAPTER 157A - Employee Cooperative Corporations.

CHAPTER 157B - Cooperative Housing Corporations.

CHAPTER 158 - Certain Miscellaneous Corporations.

§ 16 amended, 1997, 164 § 123.

§ 17 amended, 1998, 463 § 128.

§ 39 amended, 1997, 164 § 124.

§ 40 amended, 1997, 164 § 125.

CHAPTER 159 - Common Carriers.

§ 10 amended, 1997, 164 § 126.

§ 12E added, 1998, 327 § 1.

§ 59 amended, 1997, 164 §§ 127, 128, 129, 130.

§ 65 amended, 1997, 164 §§ 131, 132, 133, 134, 135, 136.

§ 70 amended, 1997, 164 §§ 137, 138, 139, 140.

§ 73 amended, 1997, 164 § 141.

§ 74 amended, 1997, 164 §§ 142, 143, 144, 145.

§ 78 amended, 1997, 164 § 146.

§ 79 amended, 1997, 164 § 147.

§ 80 amended, 1997, 164 § 148, 149, 150, 151.

CHAPTER 159A - Common Carriers of Passengers by Motor Vehicle.

§ 1 amended, 1997, 164 § 152.

§ 2 amended, 1997, 164 § 153.

§ 3 amended, 1997, 164 § 154.

CHAPTER 159B - Carriers of Property by Motor Vehicle.

§ 2 amended, 1997, 164 §§ 155, 156, 157.

§ 6B amended, 1997, 164 § 158.

CHAPTER 160 - Railroads.

§ 1 amended, 1997, 164 § 159.
§ 104 amended, 1997, 164 §§ 160, 161.
§ 127A amended, 1997, 164 § 162.
§ 134A amended, 1997, 164 §§ 163, 164
§ 136 amended, 1998, 463 § 129.
§ 145 amended, 1997, 164 § 165.
§ 147 amended, 1998, 463 § 130.
§ 147A amended, 1997, 164 § 166.
§ 218, first sentence revised, 1998, 410 § 2.

CHAPTER 161 - Street Railways.

§ 1 amended, 1997, 164 § 167.
§ 19, first paragraph amended, 1998, 88.
§ 82 amended, 1997, 164 § 168.
§ 85 amended, 1997, 164 §§ 169, 170, 171, 172.

CHAPTER 161A - Massachusetts Bay Transit Authority.

§ 3 amended, 1997, 164 § 173.
§ 5, subsection (f¾), sentence inserted after first sentence, 1997, 43 § 109; **section amended**, 1997, 164 § 174; **section amended**, 1998, 161 § 544. (See 1997, 43 § 311.)
§ 11A amended, 1997, 164 § 175.
§ 22 amended, 1997, 164 §§ 176, 177.

CHAPTER 161B - Transportation Facilities, Highway Systems and Urban Development Plan.

§ 6 amended, 1997, 164 § 178; **section amended**, 1998, 463 § 131.
§ 8 amended, 1997, 164 § 179.
§ 16 revised, 1997, 164 § 180.

CHAPTER 161C - Rail Transportation in the Commonwealth.

CHAPTER 161D - The Massachusetts Intercity Bus Capital Assistance Program.

CHAPTER 162 - Electric Railroads.

§ 1 amended, 1997, 164 § 181.

CHAPTER 163 - Trackless Trolley Companies.

§ 1 amended, 1997, 164 § 182.

CHAPTER 164 - Manufacture and Sale of Gas and Electricity.

- § 1, definition of “Aggregator” inserted, 1997, 164 § 183; definition of “Ancillary services” inserted, 1997, 164 § 184; definition of “Contract termination fee” inserted, 1997, 164 § 185; **section amended**, 1997, 164 § 186; definitions of “Default Service”, “Distributed generation”, “Distribution”, “Distribution company”, “Distribution facility” and “Distribution service” inserted, 1997, 164 § 187; definition of “Electric company” stricken out and definitions of “Electric company”, “Electric service”, “Energy efficiency” and “FERC” inserted, 1997, 164 § 188; definition of “Gas company” stricken out and definitions of “Gas company”, “Generation”, “Generation company”, “Generation facility”, “Generation service”, “Horizontal market power” and “Mitigation” inserted, 1997, 164 § 189; definitions of “Renewable energy” or “renewables”, “Residual value”, “Retail access”, “Retail customer”, “Securitization” and “Service territory” inserted, 1997, 164 § 190; definition of “Supplier” inserted, 1997, 164 § 191; definitions of “Transition charge”, “Transition costs”, “Transmission”, “Transmission company”, “Transmission facility”, “Transmission service”, “Unbundled rates”, “Vertical market power” and “Wholesale generation company” inserted, 1997, 164 § 192.
- § 1A added, 1997, 164 § 193.
- § 1B added, 1997, 164 § 193.
- § 1C added, 1997, 164 § 193.
- § 1D added, 1997, 164 § 193.
- § 1E added, 1997, 164 § 193.
- § 1F added, 1997, 164 § 193.
- § 1G added, 1997, 164 § 193; subsection (d), paragraph (2), subparagraph (i) second sentence revised, 1998, 463 § 132; subsection (g), fifth sentence revised, 1998, 463 § 133.
- § 1H added, 1997, 164 § 193.
- § 2 amended, 1997, 164 §§ 194, 195.
- § 34A added, 1997, 164 § 196.
- § 34B added, 1997, 164 § 196.
- § 47A added, 1997, 164 § 197.
- § 47B added, 1997, 164 § 197.
- § 47C added, 1997, 164 § 197; subsection (c) amended, 1998, 194 § 192.
- § 47D added, 1997, 164 § 197; **section revised**, 1998, 463 § 134.
- § 52 amended, 1998, 463 § 135.
- § 56 amended, 1998, 463 § 136.
- § 56D amended, 1997, 164 § 198.
- § 57 amended, 1997, 164 § 199.
- § 69E amended, 1998, 463 § 137.
- § 69G, definition of “Certificate” revised, 1997, 164 § 200; **section amended**, 1997, 164 § 201; definition of “Facility” revised, 1997, 164 § 202; definition of “Generating facility” inserted, 1997, 164 § 203. (See 1997, 164 § 342.)

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- § 69H, first paragraph revised, 1997, 164 § 204; fifth paragraph amended, 1997, 164 § 205; **section amended**, 1998, 161 §§ 545, 546. (See 1997, 164 § 342.)
- § 69H½ amended, 1997, 164 § 206.
- § 69I, fourth paragraph revised, 1997, 164 § 207; two paragraphs added, 1997, 164 § 208.
- § 69J, paragraph added, 1997, 164 § 209.
- § 69J½ added, 1997, 164 § 210.
- § 69K amended, 1997, 164 §§ 211, 212 and 213.
- § 69K½ added, 1997, 164 § 214.
- § 69L amended, 1997, 164 § 215.
- § 69L½ added, 1997, 164 § 216.
- § 69M amended, 1997, 164 §§ 217, 218.
- § 69N amended, 1997, 164 §§ 219, 220.
- § 69O amended, 1997, 164 §§ 221, 222.
- § 69O½ added, 1997, 164 § 223.
- § 69R amended, 1997, 164 §§ 224, 225; first paragraph, first sentence revised, 1998, 463 § 138; seventh paragraph revised, 1997, 164 § 226; **section amended**, 1998, 463 § 139.
- § 76B amended, 1997, 164 § 227.
- § 78 revised, 1997, 164 § 228.
- § 79 revised, 1997, 164 § 229.
- § 87 amended, 1997, 164 § 230.
- § 92 amended, 1997, 164 §§ 231, 232.
- § 92A amended, 1997, 164 §§ 233, 234, 235, 236.
- § 94, last paragraph amended, 1997, 164 § 237.
- § 94A, sentence added, 1997, 164 § 238.
- § 94G, subsection (g) added, 1997, 164 § 239; **section amended**, 1998, 463 § 140.
- § 94G½, paragraph added, 1997, 164 § 240.
- § 95 amended, 1997, 164 § 241.
- § 96 amended, 1997, 164 §§ 242, 243.
- § 102C added, 1997, 164 § 244.
- § 125A amended, 1997, 164 § 245.
- § 128 amended, 1997, 164 § 246.
- § 134 added, 1997, 164 § 247.
- § 135 added, 1997, 164 § 247.
- § 136 added, 1997, 164 § 247.
- § 137 added, 1997, 164 § 247.

CHAPTER 164A - New England Power Pool.

- § 1 amended, 1997, 164 § 248.
- § 8 amended, 1997, 164 § 249.

CHAPTER 165 - Water and Aqueduct Companies.

§ 1 amended, 1997, 164 § 250.

§ 28 amended, 1997, 164 § 251.

CHAPTER 166 - Telephone and Telegraph Companies, and Lines for the Transmission of Electricity.

§ 4 amended, 1997, 164 § 252.

§ 7 amended, 1997, 164 § 253.

§ 8 amended, 1997, 164 § 254.

§ 11 amended, 1997, 164 § 255.

§ 15E amended, 1997, 164 §§ 256, 257, 258, 259, 260, 261, 262; **section amended**, 1998, 161 § 547.

§ 22A amended, 1997, 164 § 263; introductory paragraph revised, 1998, 463 § 141.

§ 22L amended, 1997, 164 § 264.

§ 25A amended, 1997, 164 § 265; last paragraph stricken out and two paragraphs inserted, 1997, 164 § 266.

§ 27 amended, 1997, 164 § 267.

§ 44 amended, 1997, 164 §§ 268, 269.

CHAPTER 166A - Community Antenna Television Systems.

§ 1 revised, 1997, 43 § 110; definition of “Division” inserted, 1997, 88 § 33; revised, 1998, 463 § 142; definitions of “Community antenna television system” or “CATV system” stricken out and definitions of “Commission” and “Community antenna television system” or “CATV system” inserted, 1997, 164 § 270; definition of “Director” stricken out and definition of “Department” inserted, 1997, 164 § 271; definition of “Licensee” revised, 1997, 164 § 272. (See 1997, 43 § 311; 88 § 114.)

§ 2, first paragraph revised, 1997, 43 § 111; **section amended**, 1997, 43 §§ 112, 113; first paragraph, sentence added, 1997, 88 § 34; second paragraph amended, 1997, 88 § 35; **section amended**, 1997, 164 § 273. (See 1997, 43 § 311; 88 § 114; 164 § 344.)

§ 2A amended, 1997, 43 §§ 114, 115, 116. (See 1997, 43 § 311.)

§ 3 amended, 1997, 43 § 117; **section amended**, 1998, 463 § 143. (See 1997, 43 § 311.)

§ 4 amended, 1997, 43 § 118. (See 1997, 43 § 311.)

§ 5 amended, 1997, 43 § 119. (See 1997, 43 § 311.)

§ 7 amended, 1997, 43 § 120. (See 1997, 43 § 311.)

§ 8 amended, 1997, 43 § 121; **section amended**, 1998, 463 § 144. (See 1997, 43 § 311.)

§ 10 amended, 1997, 43 § 122; **section amended**, 1997, 164 § 274. (See 1997, 43 § 311.)

§ 11 amended, 1997, 43 § 123. (See 1997, 43 § 311.)

§ 12 amended, 1997, 43 § 124; **section amended**, 1997, 164 § 275. (See 1997, 43 § 311.)

§ 13 amended, 1997, 43 § 125; **section amended**, 1998, 463 § 145. (See 1997, 43 § 311.)

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§ 14 amended, 1997, 43 § 126. (See 1997, 43 § 311.)

§ 15 amended, 1997, 43 § 127; **section amended**, 1998, 463 § 146. (See 1997, 43 § 311.)

§ 16 amended, 1997, 43 § 128. (See 1997, 43 § 311.)

§ 17 amended, 1997, 43 § 129. (See 1997, 43 § 311.)

CHAPTER 167 - Supervision of Banks.

§ 26 revised, 1998, 474 § 1.

§ 26A revised, 1998, 474 § 1.

§ 26B added, 1998, 474 § 1.

§ 36A added, 1998, 474 § 2.

§ 49 added, 1998, 228 § 1.

§ 50 added, 1998, 228 § 1.

§ 51 added, 1998, 228 § 1.

CHAPTER 167A - Bank Holding Companies.

CHAPTER 167B - Electronic Branches and Electronic Fund Transfers.

§ 1 amended, 1998, 463 §§ 147, 148, 149.

§ 5 amended, 1997, 164 § 276.

§ 20 amended, 1997, 164 § 277.

CHAPTER 167C - Bank Locations.

CHAPTER 167D - Deposits and Accounts.

§ 3 amended, 1997, 178 § 1.

§ 27, sentence added, 1998, 24 § 13.

§ 36 added, 1998, 160.

CHAPTER 167E - Mortgages and Loans.

§ 2 subsection (B), paragraph 14A revised, 1998, 283 § 1; **section amended**, 1998, 222 § 2; subsection (C) added, 1998, 222 § 3.

CHAPTER 167F - Investments and Other Powers.

§ 2A added, 1998, 129 § 2; paragraphs (6) and (7) of the first paragraph revised, 1998, 222 § 4.

§ 3 amended, 1998, 463 § 150.

CHAPTER 167G - Trust Department.

CHAPTER 167H - Mutual Holding Companies.
(New chapter inserted, 1987, 630.)

CHAPTER 168 - Savings Banks.

§ 5 amended, 1997, 19 § 111; **section amended**, 1998, 474 § 3; paragraph added, 1998, 474 § 4.

§ 11, after third sentence, two sentences inserted, 1998, 163 § 1; Paragraph 2 amended, 1998, 163 § 2; sentence added, 1998, 163 § 3; paragraph added, 1998, 222 § 5.

§ 7, second paragraph, clause (a) revised, 1998, 163 § 4; paragraph added, 1998, 164 § 5.

§ 17 revised, 1998, 222 § 6.

§ 18 revised, 1998, 222 § 6.

§ 26, second paragraph revised, 1998, 222 § 7.

§ 39 amended, 1997, 19 § 112.

CHAPTER 169 - Deposits with Others than Banks.
(Chapter revised, 1995, 337 § 1.)

CHAPTER 169A - Licensing of Check Cashers.
(New chapter inserted, 1993, 308 § 1.) (See 1993, 308 § 2.)

CHAPTER 170 - Co-operative Banks.

§ 4 amended, 1998, 474 § 5; paragraph added, 1998, 474 § 6.

§ 7, last paragraph revised, 1998, 222 § 8.

§ 15 revised, 1998, 222 § 9.

§ 18, second paragraph revised, 1998, 222 § 10.

CHAPTER 171 - Credit Unions.

§ 3, paragraph added, 1998, 222 § 11.

§ 6 revised, 1998, 474 § 7.

§ 6A added, 1998, 223.

§ 27 revised, 1998, 222 § 12.

§ 41A added, 1997, 178 § 2.

§ 65, paragraph 5A of the seventh paragraph revised, 1998, 283 § 2.

§ 75 amended, 1998, 463 § 151.

CHAPTER 172 - Trust Companies.

- § 11, first sentence stricken out and two sentences inserted, 1998, 222 § 13.
- § 15 revised, 1998, 222 § 14.
- § 16 revised, 1998, 163 § 6.
- § 19 first paragraph, first sentence stricken out, 1998, 222 § 15.
- § 22, second paragraph revised, 1998, 222 § 16.
- § 28 revised, 1998, 222 § 17.
- § 40 repealed, 1998, 474 § 8.
- § 41 repealed, 1998, 474 § 8.
- § 42 repealed, 1998, 474 § 8.
- § 43 repealed, 1998, 474 § 8.
- § 44 repealed, 1998, 474 § 8.
- § 45 repealed, 1998, 474 § 8.
- § 46 repealed, 1998, 474 § 8.
- § 47 repealed, 1998, 474 § 8.

CHAPTER 172A - Banking Companies.

CHAPTER 173 - Mortgage Loan Investment Companies.

CHAPTER 174 - Bond and Investment Companies.
(Chapter repealed, 1950, 822 § 1.)

**CHAPTER 174A - Regulation of Rates for Fire, Marine and Inland Marine Insurance,
and Rating Organizations.**

CHAPTER 174B - Regulation of Automobile Clubs.

CHAPTER 175 - Insurance.

- § 3C added, 1998, 47 § 15. (See 1997, 47 § 37.)
- § 5C amended, 1997, 19 § 114.
- § 11A amended, 1997, 19 § 113.
- § 19F added, 1998, 198 § 3.
- § 19G added, 1998, 198 § 3.
- § 19H added, 1998, 198 § 3.
- § 19I added, 1998, 198 § 3.
- § 19J added, 1998, 198 § 3.
- § 19K added, 1998, 198 § 3.
- § 19L added, 1998, 198 § 3.
- § 19M added, 1998, 198 § 3.
- § 19N added, 1998, 198 § 3.

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- § 19O added, 1998, 198 § 3.
- § 19P added, 1998, 198 § 3.
- § 19Q added, 1998, 198 § 3.
- § 19R added, 1998, 198 § 3.
- § 19S added, 1998, 198 § 3.
- § 19T added, 1998, 198 § 3.
- § 19U added, 1998, 198 § 3.
- § 19V added, 1998, 198 § 3.
- § 19W added, 1998, 198 § 3.
- § 24D revised, 1998, 64 § 186; first sentence amended, 1998, 194 § 193; last sentence stricken out and paragraph inserted, 1998, 485 § 21.
- § 46A amended, 1998, 463 § 152.
- § 47 amended, 1998, 463 § 153.
- § 47C amended, 1997, 235 § 1; paragraph added, 1998, 243 § 4.
- § 47T added, 1998, 140 § 2.
- § 80 amended, 1998, 463 § 154.
- § 94D amended, 1998, 463 § 155.
- § 94E amended, 1998, 463 § 156.
- § 94J amended, 1998, 463 § 157.
- § 99 amended, 1998, 463 § 158.
- § 108 amended, 1998, 463 § 159.
- § 110 amended, 1998, 169 §§ 1, 2.
- § 112A revised, 1998, 307.
- § 112B revised, 1998, 54 § 3.
- § 113A, second and third paragraphs stricken out and one paragraph inserted, 1998, 155 § 2.
- § 113B, paragraph added, 1997, 43 § 130; **section amended**, 1998, 194 § 194. (See 1997, 43 § 311.)
- § 113U added, 1998, 246.
- § 133 amended, 1998, 169 §§ 3, 4.
- § 162B revised, 1997, 174 § 1.
- § 168 amended, 1998, 463 § 160.
- § 174E **repealed**, 1998, 129 § 3.
- § 180C, paragraph added, 1998, 258 § 1.
- § 182 amended, 1998, 463 § 161.
- § 183 amended, 1998, 463 § 162.
- § 193U, first paragraph revised, 1998, 372 § 1; third paragraph, definition of “Eligible health care provider” stricken out, 1998, 372 § 2; definition of “Health care provider” revised, 1998, 372 § 3; definition of “Medical malpractice insurer” revised, 1998, 372 § 4; **section amended**, 1998, 372 §§ 5, 6.
- § 209 added, 1998, 129 § 4.
- § 210 added, 1998, 129 § 4.
- § 211 added, 1998, 129 § 4.

CHAPTER 175A - Regulation of Rates for Certain Casualty Insurance, including Fidelity, Surety and Guaranty Bonds, and for all other Forms of Motor Vehicle Insurance, and Regulation of Rating Organizations.

§ 5B amended, 1998, 161 § 548.

CHAPTER 175B - Unauthorized Insurer's Process Act.

CHAPTER 175C - Urban Area Insurance Placement Facility.

CHAPTER 175D - Massachusetts Insurers Insolvency Fund.

CHAPTER 175E - Regulation of Rates for Optional Motor Vehicle Insurance.

CHAPTER 175F - Medical Malpractice Self-Insurance Trust Funds.

CHAPTER 175G - Pollution Liability Reinsurance Corporation.
(New chapter inserted, 1987, 650 § 2.)

CHAPTER 175H - False Health Care Claims.
(New chapter inserted, 1988, 295.)

CHAPTER 175I - Insurance Information and Privacy Protection.
(New chapter inserted, 1991, 516 § 1.) (See 1991, 516 § 6.)

CHAPTER 175J - Administration Supervision and Hazardous Financial Conditions of Insurities.
(New chapter inserted, 1993, 226 § 52.)

CHAPTER 176 - Fraternal Benefit Societies.

CHAPTER 176A - Nonprofit Hospital Service Corporations.

§ 5 amended, 1998, 161 § 549.

§ 8B amended, 1997, 235 §§ 2, 3; paragraph added, 1998, 243 § 5.

§ 8T added, 1998, 140 § 3.

§ 17 amended, 1998, 161 § 550.

CHAPTER 176B - Medical Service Corporations.

§ 4C amended, 1997, 235 §§ 4, 5; paragraph added, 1998, 243 § 6.

§ 4P, inserted by 1994, 60 § 147 stricken out, 1998, 463 § 163.

§ 4Q, inserted by 1994, 302 § 6 stricken out, 1998, 463 § 163.

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§ 4R added, 1998, 140 § 4.
§ 4S added, 1998, 463 § 165.
§ 4T added, 1998, 463 § 165.
§ 14 amended, 1998, 463 § 166.

CHAPTER 176C - Nonprofit Medical Service Plans.

CHAPTER 176D - Unfair Practices and Unfair Deception Acts and Practices in the Business of Insurance.

CHAPTER 176E - Dental Service Corporations.

§ 1, definition of "Registered dentist" revised, 1998, 216.
§ 14 amended, 1998, 463 § 167.

CHAPTER 176F - Optometric Service Corporations.

§ 14 amended, 1998, 463 § 168.

CHAPTER 176G - Health Maintenance Organizations.

§ 4 amended, 1997, 235 §§ 6, 7.
§ 4H, inserted by 1994, 284 § 5, stricken out, 1998, 463 § 169
§ 4J added, 1998, 140 § 5.
§ 4K added, 1998, 243 § 7.
§ 4L added, 1998, 463 § 170.

CHAPTER 176H - Legal Service Plans.

CHAPTER 176I - Preferred Provider Arrangements.
(New chapter inserted, 1988, 23 § 65.) (See 1988, 23 § 92.)

CHAPTER 176J - Small Group Health Insurance.
(New chapter inserted, 1991, 495 § 42.)

§ 5 amended, 1998, 463 § 171.

CHAPTER 176K - Medicare Supplement Insurance Plans.
(New chapter inserted, 1993, 495 § 45.)

CHAPTER 176L - Risk Retention and Risk Purchasing Groups.
(New chapter inserted, 1993, 226 § 53.)

CHAPTER 176M - Nongroup Health Insurance.

(New chapter inserted, 1996, 297 § 29.) (See 1997, 297 § 34.)

§ 1, definition of "Health plan", second sentence revised, 1997, 19 § 115.

§ 4, paragraph (5) added, 1998, 194 § 195; paragraph (6) added, 1998, 355 § 1. (See 1998, 355 § 2.)

CHAPTER 176N - Portability of Health Insurance.

(New chapter inserted, 1996, 297 § 30.) (See 1996, 297 § 34.)

§ 1, definition of "Late enrollee" revised amended, 1997, 47 § 16; 188 § 36. (See 1997, 47 § 37; 88 § 114.)

CHAPTER 177 - Assessment Insurance.

(Chapter repealed, 1924, 406 § 17; 1929, 24, § 1.)

CHAPTER 178 - Savings Bank Life Insurance.

(Chapter repealed, 1990, 499 § 22.) (See 1990, 499 § 24.)

CHAPTER 178A - Savings Bank Life Insurance.

(New chapter inserted, 1990, 499 § 23.) (See 1990, 499 § 24.)

§ 4, fourth paragraph, first and second sentences stricken out, 1998, 129 § 5.

CHAPTER 179 - Proprietors of Wharves, Real Estate Lying in Common, and General Fields.

CHAPTER 180 - Corporations for Charitable and Certain Other Purposes.

CHAPTER 180A - Management of Institutional Funds.

CHAPTER 181 - Foreign Corporations.

CHAPTER 182 - Voluntary Associations and Certain Trusts.

§ 1 amended, 1997, 164 § 278.

§ 2B added, 1998, 398 § 2A.

CHAPTER 183 - Alienation of Land.

§ 28A amended, 1998, 242 § 2.

§ 68 added, 1998, 129 § 6.

CHAPTER 183A - Condominiums.

§ 1, definition of "Limited common areas and facilities" revised, 1998, 242 § 3.

§ 4, subsection (5) revised, 1998, 242 § 4.

§ 5, subsection (b) revised, 1998, 242 § 5.

§ 6, subsection (c), two paragraphs inserted after third paragraph, 1998, 242 § 6; subsection (d), last sentence revised, 1998, 242 § 7.

§ 14 revised, 1998, 194 § 196.

CHAPTER 183B - Real Estate Time-Shares.

(New chapter inserted, 1987, 760 § 1.) (See 1987, 760 § 2.)

CHAPTER 184 - General Provisions relative to Real Property.

§ 32 amended, 1997, 164 § 279; **section amended**, 1998, 161 § 551.

§ 33 amended, 1998, 161 §§ 552, 553.

CHAPTER 184A - The Rule against Perpetuities.

CHAPTER 184B - Short Form Terms for Wills and Trusts.

CHAPTER 185 - The Land Court and Registration of Title to Land.

§ 10A revised, 1998, 471.

CHAPTER 185A - Housing Court of the City of Boston, Jurisdiction and Powers.

CHAPTER 185B - Housing Court of the County of Hampden

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CHAPTER 185C - Housing Court Department.

§ 8, first sentence revised, 1998, 194 § 198.

CHAPTER 186 - Estates for Years and at Will.

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§ 5 amended, 1997, 164 §§ 280, 281.

CHAPTER 188 - Homesteads.

CHAPTER 189 - Dower and Curtesy.

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CHAPTER 190A - Effect of Apparently Simultaneous Deaths Upon Devolution and Disposition of Property, Including Proceeds of Insurance.

CHAPTER 191 - Wills.

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CHAPTER 192 - Probate of Wills and Appointment of Executors.

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CHAPTER 195 - General Provisions Relative to Executors and Administrators.

CHAPTER 196 - Allowances to Widows and Children, and Advancements.

CHAPTER 197 - Payment of Debts, Legacies and Distributive Shares.

CHAPTER 198 - Insolvent Estates Of Deceased Persons.

§ 1 amended, 1998, 64 § 187.

CHAPTER 199 - Settlement of Estates of Deceased Non-residents.

CHAPTER 199A - General Provisions Regarding Certain Foreign Fiduciaries.

CHAPTER 200 - Settlement of Estates of Absentees.

CHAPTER 200A - Abandoned Property.

CHAPTER 201 - Guardians and Conservators.

§ 2, sentence added, 1998, 64 § 188.

§ 5, sentence added, 1998, 194 § 199.

§ 6, paragraph (a), second sentence stricken out, 1997, 165 § 1.

§ 7 amended, 1997, 165 § 2.

§ 13 amended, 1997, 165 §§ 3, 4.

CHAPTER 201A - Uniform Transfer to Minors Act.

(Title revised, 1987, 465 § 57.) (Former title, Uniform Gifts to Minors Act.)

CHAPTER 201B - Uniform Durable Power of Attorney Act.

CHAPTER 201C - Statutory Custodianship Trusts.

CHAPTER 201D - Health Care Proxies.

(New chapter inserted, 1990, 332 § 1.)

(Title inserted, 1992, 286 § 252.)

CHAPTER 201E - Uniform Transfer on Death Security Registration Act.

(New chapter inserted, 1998, 377.)

CHAPTER 202 - Sales, Mortgages and Leases of Real Estate by Executors, Administrators, Guardians and Conservators.

§ 32, sentence added, 1998, 147 § 3.

CHAPTER 203 - Trusts.

CHAPTER 203A - Uniform Common Trust Fund Act.

(Former title, Collective Investment of Small Trust Funds.)

CHAPTER 203B - Uniform Custodial Trust Act.

(New chapter inserted, 1993, 434 § 1.) (See 1993, 434 §§ 2,3.)

CHAPTER 203C - Prudent Investment.

(New chapter inserted, 1990, 398 § 1.)

CHAPTER 204 - General Provisions Relative to Sales, Mortgages, Releases, Compromises, etc., by Executors, etc.

CHAPTER 205 - Bonds of Executors, Administrators, Guardians, Conservators, Trustees, and Receivers.

CHAPTER 206 - Accounts and Settlements of Executors, Administrators, Guardians, Conservators, Trustees and Receivers.

§ 7 amended, 1997, 165 §§ 5, 6.

§ 24 amended, 1997, 165 § 7.

CHAPTER 207 - Marriage.

§ 20 amended, 1998, 64 §§ 189, 190, 191, 192; **section amended**, 1998, 463 § 172.
§ 38 amended, 1998, 476 § 1.
§ 39 amended, 1998, 476 § 2; second paragraph, sentence inserted after first sentence, 1998, 476 § 3.

CHAPTER 208 - Divorce.

§ 6B, second sentence stricken out and two sentences inserted, 1998, 64 § 193.
§ 28, two sentences inserted after first sentence, 1998, 64 § 1998; sentence inserted after eighth sentence, 1998, 64 § 194; paragraph added, 1997, 77 § 2.
§ 31 amended, 1998, 179 §§ 1, 2.
§ 31A added. 1998, 179 § 3.

CHAPTER 209 - Husband and Wife.

§ 32F, subsection (d) revised, 1998, 64 § 196; subsection (e), sentence added, 1998, 64 § 197.
§ 37, two sentences inserted after first sentence, 1998, 64 § 198; first paragraph, sentence inserted after seventh sentence, 1998, 64 § 199; paragraph added, 1997, 77 § 3; **section amended**, 1998, 64 §§ 200, 201, 202, 203.
§ 38 added, 1998, 179 § 4.

CHAPTER 209A - Abuse Prevention.

§ 3 amended, 1998, 64 § 204; **section amended**, 1998, 179 § 5.
§ 3B amended, 1998, 180 § 48.
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CHAPTER 209C - Children Born Out of Wedlock.

§ 1 amended, 1998, 64 § 205.
§2 revised, 1998, 64 § 206.
§ 3, subsection (a), sentence added, 1997, 77, § 4; **section amended**, 1998, 64 §§ 207, 208.
§ 5 amended, 1998, 64 §§ 210, 211, 212; subsection (b) revised, 1998, 64 § 213; **section amended**, 1998, 64 §§ 214, 215; **section amended**, 1998, 463 § 173.
§ 6 amended, 1998, 64 § 216.
§ 8 amended, 1998, 64 §§ 216A, 217, 218, 219, 220, 221.
§ 9 amended, 1998, 64 §§ 222, 223, 224, 225; subsection (e) revised, 1998, 64 § 226.
§ 10, subsection (e) added, 1998, 179 § 6.
§ 11 subsection (a) revised, 1998, 64 § 227; **section amended**, 1998, 64 § 228.

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§ 13 revised, 1998, 64 § 229.

§ 14 amended, 1998, 64 §§ 230, 231.

§ 16, subsection (b) revised, 1998, 64 § 232; subsection (f) revised, 1998, 64 § 233; subsection (g) inserted, 1998, 64 § 233.

§ 17, first and second sentences stricken out and three sentences inserted, 1998, 64 § 234; **section amended**, 1998, 64 §§ 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246; **section amended**, 1998, 463 §§ 175, 176. .

§ 19 amended, 1998, 64 §§ 247, 248; first sentence revised, 1998, 463 § 174.

§ 20, sentence added, 1998, 64 § 249.

CHAPTER 209D - Uniform Interstate Family Support Act.

(chapter inserted, 1995, 5 § 87.) (See 1995, 5 § 143.)

§ 1-101 amended, 1998, 64 § 250; clause (7) revised, 1998, 64 § 251; **section amended**, 1998, 64 §§ 252, 253, 254; clause (19), second sentence revised, 1998, 64 § 255.

§ 2-201, caption revised, 1998, 64 § 256.

§ 2-203, caption revised, 1998, 64 § 257.

§ 2-205, subsection (a), clause (2) revised, 1998, 64 § 258.

§ 2-207, caption revised, 1998, 64 § 259; **section revised**, 1998, 64 § 260.

§ 3-301 amended, 1998, 64 §§ 261, 262.

§ 3-304 amended, 1998, 64 § 263; subsection (b) added, 1998, 64 § 264.

§ 3-305 amended, 1998, 64 § 265.

§ 3-306 amended, 1998, 64 § 266.

§ 3-307 amended, 1998, 64 § 267.

§ 3-310 amended, 1998, 64 § 268.

§ 5-501, caption amended, 1998, 64 § 269; subsection (a) revised, 1998, 64 § 270.

§ 5-502 revised, 1998, 64 § 271.

§ 5-503 added, 1998, 64 § 271.

§ 5-504 added, 1998, 64 § 271.

§ 5-505 added, 1998, 64 § 271.

§ 5-506 added, 1998, 64 § 271.

§ 5-507 added, 1998, 64 § 271.

§ 6-601, caption amended, 1998, 64 § 272.

§ 6-605, caption amended, 1998, 64 § 273; **section amended**, 1998, 64 § 74.

§ 6-606 amended, 1998, 64 § 275.

§ 6-609, caption amended, 1998, 64 § 276; **section amended**, 1998, 64 § 77.

§ 6-611 amended, 1998, 64 § 278; subsection (a), clause (2) revised, 1998, 64 § 279; **section amended**, 1998, 64 § 280.

§ 6-613 added, 1998, 64 § 281.

§ 6-614 added, 1998, 64 § 281.

CHAPTER 210 - Adoption of Children and Change of Names.

§ 2 amended, 1998, 463 § 177.

§ 3, paragraph (b), first paragraph, sentence inserted after fourth sentence, 1998, 14 § 2; third paragraph, sentence inserted after first sentence, 1998, 14 § 3.

CHAPTER 211 - The Supreme Judicial Court.

§ 4A amended, 1998, 463 § 178.

§ 22, first sentence revised, §§ 200, 201, 202. (See 1998, 194 §§ 433, 434.)

CHAPTER 211A - Appeals Court.

§ 2, first sentence revised, §§ 203, 204, 205. (See 1998, 194 §§ 433, 434.)

CHAPTER 211B - Trial Court of the Commonwealth.

§ 1 amended, 1997, 43 § 132; second sentence revised, 1998, 194 § 206. (See 1997, § 43 § 311.)

§ 2 amended, 1997, 43 § 133; first sentence revised, 1998, 194 § 207. (See 1997, 194 § 43 § 311.)

§ 4, first three paragraphs revised, §§ 208, 209, 210. (See 1998, 194 §§ 433, 434.)

§ 9 amended, 1998, 194 § 211.

§ 9A amended, 1997, 43 § 134. (See 1997, 43 § 311.)

§ 17 amended, 1998, 194 § 212.

CHAPTER 211C - Commission on Judicial Conduct.

CHAPTER 211D - Committee for Public Counsel Services.

§ 6 amended, 1998, 194 § 213.

§ 6A added, 1998, 194 § 213A.

§ 13 amended, 1997, 19 § 116; first paragraph, sentence inserted after sixth sentence, 1998, 194 § 214.

CHAPTER 211E - Massachusetts Sentencing Commission.

(New chapter inserted, 1996, 12 § 9.)

CHAPTER 211F - Office of Community Corrections.

(New chapter inserted, 1996, 12 § 9.)

§ 5, first sentence revised, 1997, 43 § 136. (See 1997, § 43 § 311.)

CHAPTER 212 - The Superior Court.

§ 1 amended, 1998, 194 § 215.

CHAPTER 213 - Provisions Common to the Supreme Judicial and Superior Courts.

CHAPTER 214 - Equity Jurisdiction.

(Former title, Equity Jurisdiction and Procedure in the Supreme Judicial and Superior Courts.)

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§ 30A added, 1998, 398 § 2.

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